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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 523

PEOPLE OF THE STATE OF ILLINOIS EX REL
MARY S. M. LOUGHRY,
Petitioner,

vs.

BOARD OF EDUCATION OF CITY OF CHICAGO,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

MARY S. M. LOUGHRY,
162 W. North Avenue,
Chicago 10, Illinois,
Petitioner.

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

Mary S. M. Loughry, petitioner herein, prays that a writ of certiorari issue to review the judgment of the Supreme Court of the State of Illinois, entered in the above-entitled case on the 12th day of September 1951.

Opinions Below

This case was first heard in the Circuit Court of Cook County, State of Illinois, and the decision has not been reported; it was heard on Appeal in the Appellate Court of Illinois, First District, and is reported at 342 Ill. App. 610. Petitioner's Petition for Leave to Appeal was denied by the Supreme Court of Illinois and has not been reported.

Jurisdiction.

The Petition for Leave to Appeal to the Supreme Court of Illinois was denied September 12, 1951. An Order signed November 30, 1951 by Mr. Justice Minton extended

until January 10, 1952 the time for filing in this Court a petition for a writ of certiorari.

The jurisdiction of this Court is invoked under 28 U. S. C., Section 1257 (3).

Respondent Board of Education of the City of Chicago has refused to grant to petitioner a certificate as principal in the school system of Chicago. The constitutionality, under both the State and Federal Constitutions, of the Board's action in refusing to certify petitioner, and its methods and procedures in the conduct of examinations for principal were raised in the trial court and again in the appellate court by the following language:

1. "The petitioner therefore states that the relator has been unlawfully and illegally, and in violation of her constitutional rights, deprived of a place on the list of eligibles for appointment as a principal in the Chicago public school system, upon which the defendants Hunt, Clark, and Edwards were duty bound to place her, and has been deprived of a Certificate of Principal, which the defendant Board of Education was duty bound to issue to her." [Emphasis added] (Abstract of Records, p. 11, par. 36)

2. "To be sure the standards assailed as inadequate in the *Chicagoland Agencies* cases were those imposed by the legislature, whereas those involved here are standards, or rather the lack of them, embodied in the rules and regulations of an administrative agency. The same principles apply, however. See *Hamilton* v. *The Board of Regents of the University of California*, 293 U. S. 245 (1934). In both instances the basic question is the adequacy of standards and procedures, and ultimately, in our system of government, the test of adequacy is a constitutional one." [Emphasis added] (Petition for Leave to Appeal to the Supreme Court of Illinois, p. 23.)

Petitioner contends and has contended in the courts of the State of Illinois that she has been deprived of her rights to due process under the Fourteenth Amendment to the Constitution of the United States.

Question Presented.

The question presented is whether as petitioner contends, the effect of an Illinois Supreme Court decision in invalidating the merit system in the appointment of Chicago school teachers as provided by statute, is a violation of the due process clause of the Constitution of the United States in the case where:

1. A state legislature creates a board to examine applicants for certificates to teach in the public schools system; and

2. Such a board is directed to make appointments and promotions of teachers on the basis of "merit," and to issue certificates to applicants who satisfactorily pass a required test of character, scholarship and general fitness; and

3. Such a board, pursuant to no legislative authority delegates the conduct of oral examinations of applicants to a subordinate group of oral examiners; and

4. An oral examination is conducted by such group, in accord with no standards or norms, save the wholly subjective and uncontrolled opinions of the members of the examining group; and

5. Where no written record is kept of the oral examination, other than a numerical grade given applicants by each member of the examining group; and

6. Where no method of appeal or review is provided.

Statute Involved.

The pertinent statutory provisions are contained in Sections 1 and 2 of Article II of the Constitution of the State of Illinois and in Sections 34-86 and 34-87 of Chapter 122 of the Illinois Revised Statutes, 1947 Bar Edition. These Sections are set out as Appendix A to this petition, at page 17.

Statement.

Petitioner is and has been since 1912 a teacher in the Chicago public schools. She holds a bachelor's degree from Loyola University and a master's degree from the University of Chicago; she spent the calendar year 1940-1941 in residence at Columbia University occupied with advance study in the field of Educational Administration and Supervision, and working toward the degree of Doctor of Philosophy. Since 1935 she has served under four principals and from each has uniformly received the highest possible efficiency rating. Her education, experience and general qualifications were sufficient to permit her to take the examination for principal held pursuant to the direction of the Chicago Board of Education.

That examination, which petitioner took in late 1947 and early 1948 was divided into parts; the first, written; the second, oral. For appointment as principal, an applicant must, according to rules promulgated by the Board of Examiners, achieve an average grade of 80 on the two parts of the examination. Both oral and written portions are accorded equal weight, and petitioner received a grade in excess of 80 on the written examination, but was failed on the oral part; her average grade was below 80.

It is, of course, the oral portion of the principal's ex-

amination with which this petition is concerned. By regulation, the oral part consisted of

> "a personal oral interview where consideration will be given to the official scholastic record of the candidate previously filed with the Board of Education, his degree of success as a teacher in the Chicago public schools, his contribution to educational research, his record of leadership and cooperation in the school system and the community, poise and other personal factors."

The Board of Education of the City of Chicago, pursuant to statute, designated a board of examiners, consisting of three persons duly qualified. These examiners, under color of no statutory authority, redelgated the function of conducting oral examinations for principals to a panel of fifteen persons, which panel was divided into three groups of five members each. One group of five members conducted the oral examination of petitioner and others among the applicants for certificate as principal. The remaining two groups, composed also of five members each, conducted examinations of the remainder of the applicants. No applicant was examined by more than five members of the fifteen-member panel.

Petitioner's examination lasted between twenty and thirty minutes and consisted of several hypothetical questions propounded by the examiners. The text of these questions is set out in Appendix B to this petition at page 19. Different questions were asked by the several groups of examiners and no applicant was asked the same questions, nor even questions essentially similar to those asked any other applicant.

No record of any sort was kept of the oral examination of petitioner or of any other applicant, save an individual numerical grade assigned by each member of an exam-

ining group to each applicant interviewed. The median one of an applicant's five grades was used as the final grade for his oral examination.

Neither under the Illinois statute nor under regulations of the Board of Education was any appeal or review permitted of the oral examination, its method or its result.

No standards of any description had been set for evaluation of the relative merit of the various applicants, and accordingly, no means existed for the establishment of either a qualitative evaluation between applicants examined by one group of examiners, or between applicants examined by different groups of the panel of examiners.

Specification of Error to be Urged.

The Supreme Court of the State of Illinois erred in denying petitioner's Petition for Leave to Appeal. In so doing, it permitted to stand the decision of the Appellate Court of Illinois, First Circuit. That Court, in reversing the decision of the trial court, had held that the methods and procedures employed by the Chicago Board of Education for the examination of applicants for certificate as principal were not violative of the due process clause of the Fourteenth Amendment to the Constitution of the United States.

Reasons for Granting the Writ.

The decision of the Supreme Court of the State of Illinois should be reviewed because it has denied to this petitioner the full benefits of Chapter 122, Secs. 34-86 and 34-87 of the Illinois Revised Statutes of 1947. That statute sets forth a "merit" system for the promotion of teachers in the city of Chicago, the legal protection of

which was not extended to this petitioner. As a result the petitioner has been denied a property right without due process of the law as prescribed by the Fourteenth Amendment to the Constitution of the United States.

Further reason for granting the writ lies in the fact that in other jurisdictions similar cases have been coming up for trial in goodly number, and even in the petitioner's jurisdiction the question has come to trial earlier.

I. A Person's Profession is a Property Right.

The constitution of the State of Illinois in Article II, section 1 (Appendix A) declares that all men have certain inherent and inalienable rights, three of them being the right to life, the right to liberty and the right to pursue happiness. In section 2 of the same article (Appendix A) it is declared that none of the named rights, plus the right of property, shall be taken from a person except by due process of law.

In the recent case of *People* v. *Brown,* 407 Ill. 565, 95 N. E. 2d 888 (1950), the court states at p. 572:

> "A person's business, profession, trade, occupation, labor, and the avails from each constitute 'property' envisioned in two sections (referring to above-given sections of Illinois constitution). The right to follow any of those activities is 'liberty' as also envisioned therein."

Similarly, in *Flynn* v. *Board of Registration in Optometry,* 320 Mass. 29, 67 N. E. 2d 846 (1945), the court stated at page 850:

> "* * * the right to follow a legitimate calling is both liberty and property and is protected by the Constitution of the United States and that of this Commonwealth."

II. Due Process of Law is a Broad Concept, Not to be Confined to a Narrow, Formalistic Application.

Petitioner's claim that she was denied the full benefit of state legislation falls within the due process clause of the Fourteenth Amendment. As this Court stated in *Wheeling Steel Corp.* v. *Glander,* 337 U. S. 562, 69 S. Ct. 1291 (1949), at p. 1296:

> "The State action, which is reviewable under the Fourteenth Amendment, is the composite result of both legislation and its judicial interpretation * * *"

This broad concept is not new. The Supreme Court has repeatedly stated that:

> "'The 'due process of law, which the Fourteenth Amendment exacts from the States is a conception of fundamental justice (citations omitted). It is not satisfied by merely formal procedural correctness * * *'" (*Foster et al.* v. *People of State of Illinois,* 332 U. S. 134, 67 S. Ct. 1716 (1947); *Palko* v. *Connecticut,* 302 U. S. 319 (1937); and *Hebert* v. *Louisiana,* 272 U. S. 312 (1926).)

The United States District Court for petitioner's own state (Illinois) recently stated in *U. S. ex rel Montgomery* v. *Ragen,* 86 F. Supp. 382 (1949):

> "Due process, in short, means fair play. Due process of law is that process of impartial law which is binding because it is right. It senses the mistakes of the past and wants to rectify them. It provides men with faith * * *"

The state court of Illinois has also used and quoted with favor this broad concept of due process in *People* v. *Dugan,* 401 Ill. 442, 82 N. E. 2d 482 (1948), when it applied this Court's definition as given in *Foster* v. *Illinois* (*supra*).

III. The Oral Examination Given Petitioner in 1948 for the Position of Principal in the City of Chicago School System was not in Conformity with the Statute Providing for Promotion for Merit Only, and Consequently was a Denial to the Petitioner of the Due Process of the Law with Respect to Her Property Right in the Teaching Profession.

A. Examination Given was Competitive in its Nature.

The Illinois school statute (Appendix A) provides that the Board of Examiners hold examinations for promotions for teachers. Such promotions to be made on the basis of merit only. The word "merit" used in conjunction with the word "examinations" implies that those persons who do best on the examinations will be either appointed or promoted, as the case may be. In other words, there need, in fact, be competition among the various candidates,—that is, the examination must be competitive in the ordinary sense; otherwise as used in the Illinois statute both "merit" and "examinations" lose their force and meaning.

Further support is lent to the allegation that it was intended that the examination be competitive by the fact that successful candidates were placed on the eligible list in the order of their final grades, and appointments made in that order. (Abstract of Records, p. 5).

In *Almassy* v. *Los Angeles County Civil Service Commission,* 210 P. 2d 503 (Calif.) (1949), the court there described the competitive examination:

> "In a competitive examination, the candidates match their qualifications each against the others, and the final determination is made by rating and comparison. It is open to all who are eligible. In

contrast, a non-competitive examination is one in which the examining authority selects at pleasure such candidates as he may choose and subjects them to examination as he deems necessary."

Petitioner's situation under the Illinois statute fully conforms to the California court's definition of a competitive examnation.

B. In a Competitive Examination it is Incumbent Upon the Examining Officials to Adopt Objective Standards. This was not Done in the Oral Part of Petitioner's Examination.

In contrast to the written part of the examination, which was machine graded, the oral examination of the petitioner was capricious and non-objective. The interview lasted 20-30 minutes during which seven questions were asked (Appendix B), none of them having any relation to the enumerated factors set forth in the notice of oral examination which petitioner had received. (Abstract of Records, p. 23).

The courts, particularly in the state of New York, have conscientiously exercised their right of judicial review in order to make certain that the spirit and the letter of the state statutes requiring promotions for public servants on the basis of merit are not violated. Although the courts are not unfavorably disposed toward oral examinations, they have consistently required that these examinations be as objective as possible. A landmark case is *Fink* v. *Finegan*, 270 N. Y. 356, 1 N. E. 2d 462 (1936), where the applicant failed the oral part of the examination because he lacked "force and executive ability." The New York Court of Appeals found these qualities too subjective to be made part of the oral examination for a police surgeon, particularly since there was no notice to the applicant that

he would be tested as to these two qualities. The court stated:

> "A test or examination, to be competitive, must employ an objective standard or measure capable of being challenged or reviewed, when necessary, by other examiners of equal ability and experience. Where the standard or measure is wholly subjective to the examiners it differs in effect in no respect from an uncontrolled opinion of the examiners and cannot be termed competitive."

This decision, requiring objectivity for all types of competitive examinations, remains valid law in New York.

Where an examiner was at liberty to evaluate a candidate's record solely on the basis of his opinion and individual notions, the court held the examination standards were not sufficiently objective. *Cohen* v. *Fields,* 298 N. Y. 235 (1948).

Examiners cannot fail candidates capriciously; they must employ objective standards in testing "judgment," "clearness and quickness of comprehension" and "manner," according to the court in the case of *Bridgman et al.* v. *Kern,* 13 N. Y. S. 2d 249 (1939).

Nor can examiners arbitrarily give more weight to experience with one institution as against another, or to education at certain colleges as being preferable to others. *Sheridan* v. *Kern,* 255 App. Div. 57, 5 N. Y. S. 2d 336 (1938).

The courts in New York have, in addition, stated that allocating 60% to an oral examination designed to test the training, experience, and general qualifications, of lawyers wishing to be unemployment insurance referees, was unreasonable. (*Cowen et al* v. *Reavy et al,* 283 N. Y. 232, 28 N. E. 2d 390 (1940)).

In *Almassy* v. *Los Angeles County Civil Service Commission,* 210 P. 2d 503 (Calif.) (1949), the court held that the oral examination met the objective standards required because the examiners' ratings were such that they were able subsequently to be translated in accordance with a fixed formula or standard. In petitioner's case the only indication of any rating was the number placed in a book by the examiner. But there was no indication of what it represented—what factors the examiner was testing, if any. Petitioner is and has been unable to determine whether it was for the personality factors indicated on the notice of examination, for education research, leadership, or cooperation in the school system or for some other qualification (Abstract of Records, p. 23).

In *Blumenthal* v. *Morton,* 78 N. Y. S. 2d 302 (1948), the court found that the instructions to candidates form an integral part of the examination. This petitioner was instructed that she would be examined orally on 1) success as a teacher, 2) contributions to educational research, 3) record of leadership and cooperation in the school system, 4) community, 5) poise and 6) other personal factors. (Abstract of Records, p. 23). Where in the seven questions propounded to petitioner (Appendix B) was she questioned about the first four topics enumerated above? Nor do the questions indicate that even the latter two factors were being tested. The questions asked petitioner indicate, according to the *Blumenthal* case, a lack of examination rather than any examination according to objective standards.

C. A Written Record Capable of Being Reviewed, and Listing the Individual Qualifications Being Rated, with the Basis for Such Rating, is an Integral Part of a Competitive Examination and of the Merit System.

Members of the committee that orally examined petitioner took no notes during the interview, nor did they make any notations. No transcript or other record of any kind was taken. The only written record was the numerical grade given by each of the interviewers.

In both New York and California the courts have held that a record of some kind, capable of being reviewed, is essential to the employment of an objective standard and to the merit system.

For example, there may be an examination of personal elements **if a proper record is made of the oral test.** *Almassy* v. *Los Angeles County Civil Service Commission,* 210 P. 2d 503 (Calif.) (1949). Where a candidate's entire oral interview, designed to test speech, manner and judgment was recorded, and in addition the examiners kept a written record, the court found there was sufficient record to show either the presence or absence of an objective standard. *Gollin* v. *Watson,* 102 N. Y. S. 2d 935 (1951). Where a candidate failed an oral test which rated appearance, manner, speech and judgment, the court found that the applicant had a **right** to a review of the transcript. *Farrell* v. *Kern,* 17 N. Y. S. 2d 934 (1940).

It is clear that this petitioner has been denied, because of the lack of record, a basis for review of the objectivity and propriety of the oral examination, contrary to the requisites of any form of a "merit" system. The gravity of the injustice becomes apparent when it is realized that the oral examination which lasted 20-30 minutes counted for 50% of the petitioner's total grade.

D. The Board of Examiners did not Conduct the Oral Examination of the Petitioner as Prescribed by Statute, but Unlawfully Delegated Such Authority.

Section 34-86 (Ill. Rev. Stats. 1949, Chap. 122) provides in part:

> "The board of examiners shall hold such examinations as the board of education may prescribe, upon the recommendation of the superintendent of schools and shall prepare all necessary eligible lists, which shall be kept in the office of the superintendent of schools and be open to public inspection."

The rule is well-established that where a given power is expressly granted by statute to a public body or official, the exercise of that power cannot be delegated to others. (*City of Sullivan* v. *Cloe*, 277 Ill. 56 (1917)). In *People ex rel Gallas* v. *Krupicka*, 279 Ill. App. 269 (1935), the board of trustees of a town could not delegate to the president the power to appoint a commissioner of public works; the court stated that the trustees, having been given exclusive power to make appointments, must exercise that power.

In petitioner's case the statute imposes upon the Board of Examiners the power and the duty to conduct examinations. The court found in *People ex rel Cook* v. *Board of Education*, 295 Ill. App. 41 (1938), that the statute created the Board of Examiners to eliminate the spoils system, and that

> "As a means to that end the duty of examination and the power to apply tests of merit and fitness was taken away from the Board of Education and was placed in the Board of Examiners." (p. 57).

In *Beefer* v. *Borrella*, 9 N. J. Super. 287, 76 A. 2d 25 (1950), the court censured the civil service commission for not strictly adhering to its prescribed statutory power.

Only one member of the Board of Examiners was present in petitioner's case and he did not participate in examining the petitioner; to the remaining members of the group administering the oral examination an attempt had been made to delegate powers of examination, exclusive of any color of statutory authority.

The petitioner submits as Appendix "C" arguments in further pursuit of her contention that the cause she prays to be reviewed is one with broad social implications and consequences, affecting and conditioning the thinking of large groups of to-day's American citizens and of future American citizens.

Conclusion.

For the reasons set forth above, it is respectfully submitted that this petition for a writ of certiorari should be granted.

MARY S. M. LOUGHRY
Petitioner
162 West North Avenue
Chicago 10, Illinois

JANUARY 10th, 1952.

APPENDIX A.

Sections of the Constitution of the State of Illinois Relating to Due Process:

Article II—Bill of Rights

"Section 1. All men are by nature free and independent, and have certain inherent and inalienable rights—among these are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

Section 2. No person shall be deprived of life, liberty or property without due process of law."

Sections of Illinois Statute Relating to Examination and Appointment of School Principals:

"34-86. Board of examiners—Certificates—Examinations.] § 34-86. A board of three examiners shall examine all applicants required to hold certificates to teach and the board of education shall issue gratuitiously to those who pass a required test of character, scholarship and general fitness, such certificates to teach as they are found entitled to receive. The board of examiners shall consist of the superintendent of schools and two persons approved and appointed by the board of education upon the nomination of the superintendent. The board of examiners shall hold such examinations as the board of education may prescribe, upon the recommendation of the superintendent of schools and shall prepare all necessary eligible lists, which shall be kept in the office of the superintendent of schools and be open to public inspection. Members of the board of examiners shall hold office for a term of two years.

34-87. Appointments and Promotions.] § 34-87. Appointments and promotions of teachers, principals and other educational employees shall be made for merit only, and after satisfactory service for a probationary period of three years (during which period the board may dismiss or discharge any such probationary employee upon the recommendation, accompanied by the written reasons therefor, of the superintendent of schools) appointments of teachers and principals shall become permanent, subject to: (1) termination by compulsory retirement at the age of sixty-five years; (2) the rules of the board concerning conduct and efficiency; and (3) removal for cause in the manner provided by Section 34-88.

The probationary period of employment shall include the time of past service of all teachers and principals and other educational employees who are in the schools at the time, or who have been therein within five years immediately preceding the time, the Act of which Sections 34-86 and this section are a continuation went into effect.

When any teacher or principal who has been promoted to the position of assistant or district superintendent or a member of the board of examiners is relieved of the duties of such position, he shall be reinstated in the position from which he was promoted.

'Teachers and principals' as used in this article means all members of the teaching force except the superintendent of schools, assistant and district superintendents and members of the board of examiners."

—Chapter 122, Ill. Rev. Stats. (Bar Edition 1947)

APPENDIX B.

The non-written part of the examination given to relator on February 23, 1948 consisted of seven questions orally asked of the relator as follows:

"Mr. Ritzma: What would you show in a school, if you were assigned, at the end of five years?

Mr. Davidson: What would you do with a child who constantly was dishonest? thieving? With a boy who was constantly stealing and who cheated?

Mr. Olson: Assume that you have two 6th grade teachers of arithmetic in your school—one who is successful and one who is not. What would you do in such a situation?

Miss Shea: What would you do with an uncooperative teacher?

Mr. Carlin: What is your relationship as principal to the district superintendent?

Mr. Ritzma: Regarding that physical education work of yours—what value other than health value would you hope to gain from it?

Mr. Ritzma: Is there anything you wish to say, Miss Loughry? If not, the interview is terminated."

Abstract of Records, p. 8

APPENDIX C.

In these United States of America education has evolved as a basic part of our dearly-bought cultural American heritage of democracy and freedom. It is, therefore, a function of education to foster and perpetuate ideals of our democratic way of life. Among spokesmen to whom is entrusted the art of fostering and perpetuating these ideals are school teachers and school principals. They are among the chief agents in this educative process. These agents can hardly be

expected to foster genuine love for honest democracy and for honest freedom, unmixed with indignation if in the very examinations which they must take for professional certification they are subjected to utterly uncontrolled, tyranical abuse of so-called oral interviews (and/or oral examinations), the new, mid-Twentieth Century despotism, the lineal descendant of that long line of inhuman, iniquitous tribunals, which have, throughout time, assumed such various forms as the sphinx, the Delphic Oracle, lettres de cachet, inquisition, star-chamber, witchcraft, divination, fortune-telling, clairvoyance, and arrogation to self of omniscience, the mental counterparts of well-known physical tortures used in the criminal field.

Even now as petitioner is writing these words, on the second day of January, 1952 there comes to her ears, over radio station WMAQ's 5 P. M. Newscast, the report (not as yet identified by name) that to-day the Supreme Court of the United States, adjudicating in the field of criminal law, in an opinion written by Mister Justice Black, reversed a lower court decision on the ground that the physical means used to obtain the evidence in the case were reminiscent of the rack and the thumb-screw. Mister Justice Black had decried their use in an earlier opinion, *Chambers* v. *Florida,* 309 U. S. 227 (1940). Radio newscasters are in a position to feel the public pulse; they know that their vast audience is interested in the elimination of unjust, inquisitorial physical practices in the criminal field. It would, therefore, seem safe to reason that these same newscasters would feel that their vast audience would be similarly interested in elimination of equally unjust, inquisitorial practices which occur in the arbitrary, capricious, and unreasonable abuse of oral examinations or interviews. The uncontrolled oral interview makes educational bankrupts of some individuals who by virtue of hard study and application have advanced into that small per cent of our population which has at least 4 years of college work.

As the trial judge subtly pointed out at page 58 in the Abstract of Records in petitioner's case there is a dangerous factor in the abuse of oral interviews which might lead to something even worse than caprice. This factor in the abuse of oral interviews takes on deep significance in these times of struggle between divergent ideologies in view of the fact that only 27 of our 48 sovereign states demand American citizenship of their teachers, according to **A Manual On Certification Requirements for School Personnel in the United States,** p. 5, Table II, Federal Security Agency Office of Education Circular 290 (1951). The uncontrolled oral interview may shield undetected encroachment among us of subversive individuals who, boring from within our free institute of education would destroy our democratic system with its respect for the worth of the individual and our free enterprise system. "Truly" said Mister Justice Frankfurter at page 166 in **The Public and Its Government,** Felix Frankfurter—New Haven—Yale University Press—quoting Huxley at pages 124-126—**American Addresses** "America has a great future before her * * * but the one condition of success, your sole safeguard, is the moral worth and intellectual clearness of the individual citizen."

Thus the abuse of discretion in oral examinations is a matter of broad import, and as Mister Justice Douglas has pointed out in another area, viz., corporations, grave danger of self perpetuation in office lies in the possibility of interlocking directorates. "Directors Who Do Not Direct"—Wm. O. Douglas—*Harvard Law Review,* XLVII No. 8 (June 1934). Examiners who do not examine can be as great a detriment to large numbers of candidates for professional certificates as directors who do not direct can be to stockholders, and when a given examination is not

repeated for ten years the need for review would seem to be sorely needed in order to determine whether due process of law is being denied by arbitrary, capricious, and unreasonable interference and from various organizations of union-affiliated teachers, men's clubs, women's clubs, church groups, possibly political parties, and so on all trying to seize power and interfere with the due process of law.

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STATE STATUTE CITED.

Illinois Revised Stats. 1949, Chap. 122, Sec. 34-86 2

IN THE

Supreme Court of the United States

OCTOBER TERM, A.D., 1951.

No. 523

PEOPLE OF THE STATE OF ILLINOIS, ex rel. MARY S. M. LOUGHRY,

Petitioner,

vs.

BOARD OF EDUCATION OF THE CITY OF CHICAGO,

Respondent.

Statement by respondent of matters and grounds making against the jurisdiction of the Supreme Court of the United States.

MAY IT PLEASE THE COURT:

Respondent Board of Education of the City of Chicago, a body politic and corporate, respectfully presents to the Court the following matters and grounds making against the jurisdiction of the Supreme Court of the United States of the petition of Mary S. M. Loughry for a writ of certiorari to review the judgment of the Supreme Court of Illinois entered in the above entitled cause on September 12, 1951, denying petitioner leave to appeal from the judg-

ment of the Appellate Court of Illinois, First District, dismissing petitioner's cross-appeal and reversing and remanding the judgment in mandamus entered in said cause in the Circuit Court of Cook County.

Statement of the Case.

By Sec. 34-86 of the Illinois school law (Ch. 122, Sec. 34-86, Ill. Rev. Stats., 1949) the Board of Examiners (consisting of the Superintendent of schools and two persons appointed by the Board of Education upon the recommendation of the superintendent) is charged with the responsibility of giving all examinations for teachers' and principals' certificates in the public schools of Chicago. The same statute requires that all applicants taking such examinations shall be examined as to "character, scholarship and general fitness."

In December, 1947 and February and March, 1948, the Board of Examiners held a principal's examination [R. 5, (Ill. Sup. Ct. Abst. 5)] which petitioner took, together with 583 other candidates, but which she failed to pass (R. 10), the Board of Examiners having determined that she lacked the "general fitness" to entitle her to a principal's certificate.

Fifteen months after petitioner was notified that she failed in said examination, she sought a writ of mandamus to compel the defendant Board of Examiners to place her name on the list of eligibles for appointment as principal and to compel the Board of Education of the City of Chicage to issue to her a certificate of principal (R. 18), notwithstanding the fact that she failed to pass the examination.

An examination of the petition for mandamus discloses that petitioner does not allege facts to establish a right

to be certified as principal on the strength of her proven general fitness for a principal's certificate, but is based solely on her contention that the method of procedure used by the examiners for testing candidates was improper.

In an amendment to her petition for mandamus she prayed, in the alternative, that the Board of Examiners be commanded to expunge from its record her grade in the non-written examination and her final grade in the written and non-written examination as a whole and that the Examiners also be commanded to grant her a second oral examination, (R. 33). Defendants filed a motion to strike and dismiss the petition for mandamus. The Circuit Court of Cook County, Illinois, entered an order denying the defendants' motion to dismiss the action and entered an order finding that petitioner was not entitled to be placed on the eligible list of successful candidates or to receive a principal's certificate, and ordered that a peremptory writ of mandamus, directing the members of the Board of Examiners to expunge from its records the final grade and the non-written examination grade given to the petitioner in the examination, and to hold a new oral examination for petitioner which "should not inquire into or seek to evaluate or examine relator's poise or other personal factors" (R. 34). Thus the trial court directed that petitioner be given a second examination different from that given to the 583 other candidates who took the examination.

Defendants appealed, claiming that the trial court erred in overruling defendants' motion to strike (R. 35). Petitioner filed a cross-appeal, claiming she was entitled to the relief originally prayed for in her petition for mandamus (R. 35).

The Appellate Court of Illinois, First District, held that the petitioner's petition for mandamus failed to show a

clear legal right to the relief sought and therefore the defendants' motion to strike should have been sustained. The Appellate Court further held that petitioner's cross-appeal should be dismissed for the same reason. (*Peo. ex rel. Loughry* v. *Board of Education*, 342 Ill. App. 610.)

Leave to appeal was denied by the Supreme Court of Illinois by order entered September 12, 1951 (R. 69).

Respondent calls the court's attention to the fact that the petition for certiorari filed herein discloses that Hunt, Clarke and Edwards, as members of the Board of Examiners, have not been made respondents.

The Board of Education of the City of Chicago is a legal entity, separate and distinct from the members of the Board of Examiners and is without power in the conduct of examinations. Such power is vested by statute in the Board of Examiners. (*People ex rel. Cook* v. *Board of Education*, 295 Ill. App. 41.)

Thus it can be seen that any order which this court might enter would necessarily affect Hunt, Clarke and Edwards, as members of the Board of Examiners, and consequently, their omission from this proceeding is a fatal defect. (*Louisville & Nashville Railroad Co.* v. *Parker*, 287 U. S. 569, 77 L. ed. 501; *Boynton* v. *Hutchinson Gas Co.*, 292 U.S. 601, 78 L. ed. 1464.)

ARGUMENT.

I.

No Federal question was presented to or decided by the Illinois courts.

The record in the case at bar is wholly devoid of any showing that the petitioner raised or that the state courts considered or decided any federal question whatsoever, or that a decision on a federal question was necessary to the determination of the issues between the parties in this suit.

It has long been settled by this court that it acquires no jurisdiction to review the judgment of a state court unless it affirmatively appears on the face of the record that a federal question, constituting an appropriate ground for such review, was presented in the state court and expressly or necessarily decided by such state court (*Southwestern Bell Telephone Co.* v. *Oklahoma,* 303 U.S. 206, 212, 213, 82 L. ed. 751, 755; *Lynch* v. *New York,* 293 U.S. 52, 54, 79 L. ed. 191, 192; *Mellon* v. *O'Neil,* 275 U.S. 212, 214, 72 L. ed. 245, 246; *Whitney* v. *California,* 274 U.S. 357, 360, 361, 71 L. ed. 1095, 1099, 1100; *Johnson* v. *Risk,* 137 U.S. 300, 306, 307, 34 L. ed. 683, 686; *DeSaussure* v. *Gaillard,* 127 U.S. 216, 234, 32 L. ed. 125, 132.)

In *Southwestern Bell Telephone Co.* v. *Oklahoma,* 303 U.S. 206, 82 L. ed. 751, this court in applying the rule, stated at pp. 212-213:

> "We have repeatedly held that it is essential to the jurisdiction of this Court in reviewing a decision of a court of a State that it must appear affirmatively from the record, not only that a federal question was presented for decision to the highest court of the

State having jurisdiction but that its decision of the federal question was necessary to the determination of the cause; that the federal question was actually decided or that the judgment as rendered could not have been given without deciding it."

An examination of the entire record will disclose that nowhere, either in the pleadings or in the decisions of any of the Illinois courts before which this case was heard, was there any issue made or decided on a federal question with reference to the Constitution of the United States. As a matter of fact, nowhere in the record is there any reference to the Constitution of the United States.

The sole basis upon which petitioner now attempts to establish that a federal question was presented to and decided by the state courts is the quotations set forth at page 2 of her petition for certiorari from paragraph 36 of her original petition for mandamus and from page 23 of her brief filed in the Supreme Court of Illinois. Neither of these shows or establishes the fact that a federal question was raised or decided by the state courts.

Even if such quotation from the brief did raise a constitutional question, which it does not, respondent points out that such brief forms no part of the record and thus it is not adequate to create a federal question. This is made clear in the case of *Live Oak Water Users' Asso.* v. *Railroad Commission,* 296 U.S. 354, 358; 70 L. ed. 305, 309, where the Court in quoting from *Zadig* v. *Baldwin,* 166 U.S. 485 said:

"In *Zadig* v. *Baldwin,* 166 U.S. 485, 488. 41 L. ed. 1087, 1088, 17 Sup. Ct. Rep. 639, here upon error to the supreme court of California, this court said: 'The contention that there was a Federal question raised below finds its only support in the fact that there has been printed in the record, as filed in this court, what purports to be an extract from the closing brief of counsel presented to the supreme court of the state,

> in which such a Federal question is discussed, and it is asserted orally at bar that in the oral argument made in the supreme court of California a claim under the Federal Constitution was presented. But, manifestly, the matters referred to form no part of the record and are not adequate to create a Federal question when no such question was necessarily decided below, and the record does not disclose that such issues were set up or claimed in any proper manner in the courts of the state.' "

It is true that in paragraph 36 of her petition petitioner alleged in general terms that "in violation of her constitutional rights" she was deprived of a place on the list of eligibles for appointment as a principal in the Chicago Public School System. However, there is no reference to or mention of the United States Constitution in the record. No right, privilege or immunity is specifically set up for claimed under the Federal Constitution. The only reference made by her to any specific constitutional provisions were those of the Illinois State Constitution (Rec. 2, 16, 17) It has been pointed out by this Court in many cases that when the jurisdiction of this court is invoked for the protection against the final judgment of the highest court of a state of some title, right, privilege or immunity secured by the constitution or laws of the United States, it must appear expressly or by necessary intendment from the record that such right, title, privilege or immunity was specially set up or claimed under the Federal Constitution or laws. In so holding this court in *Kipley* v. *State of Illinois ex rel. Akin,* 170 U.S. 182, 186, 187, 42 L. ed. 998, 1001 said:

> "We are of the opinion that this court is without jurisdiction to review the final judgment of the supreme court of Illinois in these cases. The answer makes no reference whatever to the Constitution or laws of the United States. It is true that it avers that the Illinois civil service act was 'unconstitutional

and void.' But when the jurisdiction of the court is invoked for the protection, against the final judgment of the highest court of a state, of some title, right, privilege, or immunity secured by the Constitution or laws of the United States, it must appear expressly or by necessary intendment, from the record, that such right, title, privilege, or immunity was 'specially set up or claimed' under such Constitution or laws. Rev. Stat. 709. Our jurisdiction cannot arise in such case from inference, but only from averments so distinct and positive as to place it beyond question that the party bringing the case up intended to assert a Federal right. *F. G. Oxley Stave Co.* v. *Butler County*, 166 U.S. 648 (41:1149); *Levy* v. *San Francisco*, Superior Court, 167 U.S. 175, 177 (42:126)."

Of like import was the decision of this court in the case of *Farney* v. *Towle*, 66 U.S. 350, 351, 17 L. ed. 216, 217 where the court said:

"And the plaintiff in error alleges that this law was a violation of that article of the Constitution of the United States which declares that 'no State shall pass any law impairing the obligation of contracts.'

"But no such point appears to have been raised in the state court, and this article in the Constitution does not appear to have been even referred to or noticed in any part of the proceedings. The answer of the plaintiff in error, it is true, charges, in general terms, that the law was unconstitutional and void; but from the context it would seem that this charge was applied to the constitution of the State rather than to that of the United States; and even if it could be construed as applying to the latter, it has repeatedly been declared by this court, as will appear by the reports of its decisions, that in order to give it jurisdiction, it must appear that the point was raised and decided in the state court; that the attention of the court was called to the particular clause of the Constitution of the United States upon which the party relied, and to the right he claimed under it; and that, with the question thus distinctly presented, the decision was against him."

Petitioner asserts at page 3 of her petition for certiorari that she "contended in the courts of the State of Illinois that she has been deprived of her rights to due process under the Fourteenth Amendment to the Constitution of the United States," but makes no reference to any part of the record which would support or show that she made such claim in the state courts. Equally unsupported by the record is her statement on page 16 of her petition "that court (the Appellate Court), in reversing the decision of the trial court, had held that the methods and procedures employed by the Chicago Board of Education for the examination of applicants for certificate as principal were not violative of the due process clause of the Fourteenth Amendment to the Constitution of the United States." There is absolutely no basis for such statement and a reading of the Appellate Court's opinion will clearly show that its decision was not in any way based upon a federal question, but was based purely upon local law, as we will more particularly show in Point II hereof.

An examination of the petition for leave to appeal filed in the Supreme Court of Illinois clearly discloses that the sole basis upon which leave to appeal was sought was on the assertion (1) that the Appellate Court erred in holding that the petition failed to show a clear legal right to a writ of mandamus, and (2) that it erred in dismissing plaintiff's cross-appeal. Nowhere is it there stated, or suggested that a federal question was involved or that the petitioner was "deprived of her rights to due process under the Fourteenth Amendment to the Constitution of the United States," as she now contends. The first time in this case that a federal constitutional question has been asserted is in the petitioner's present petition for writ of certiorari. Such question being raised now for the first time comes too late, as was pointed out in *Wabash*

Railroad Co. v. *Flannigan,* 192 U.S. 29, 37, 48 L. ed. 328, 331, where the court at page 37 said:

> "The constitutional questions now urged on behalf of plaintiff in error are that the dismissal of its petition for interpleader was a denial of full faith and credit to the garnishment judgment rendered by the Illinois court, and that the denial of the relief prayed for also violated the due process clause of the 14th Amendment to the Constitution of the United States.
>
> "The objection, last stated, need not be further noticed, as it was asserted for the first time in the petition for the allowance of a writ of error from this court."

To the same effect is *Mallers* v. *Commercial Loan & Trust Co.,* 216 U.S. 613, 614, 54 L. ed. 638.

II.

The Supreme Court and Appellate Court of Illinois determined this case upon non-Federal grounds adequate to sustain the judgment. The issues determined were purely matters of local law. Under such circumstances this court has no jurisdiction to review.

The only issues raised by petitioner's pleadings in her original suit and presented by the record and ultimately determined by the Appellate and Supreme Courts of Illinois were—did the Board of Examiners in conducting the examination of petitioner for certificate of principal in the Chicago public schools abuse its discretion in providing for and conducting the oral part of said examination; was the examination conducted in conformance with the state statute; and was the petitioner entitled to a principal's certificate notwithstanding her failure to pass the examination?

The Appellate Court states the issues presented by the record thus (*People ex rel. Loughry* v. *Board of Education,* 342 Ill. App. 610, 615):

> "No contention is made by plaintiff that there was any fraud, collusion, or discrimination in the oral examination given to plaintiff by defendants, nor does she question the honesty and good faith of defendants or the members of the oral examining committee who interviewed her. All of the allegations of the petition relate to the propriety of the method of procedure adopted by the Board of Examiners for testing candidates in the oral examination."

The Appellate Court examined the provisions of the state statute and found that the Board of Examiners was vested with authority to establish rules and regulations for the purpose of testing all candidates as to character, scholarship and general fitness, stating at page 614:

> "The pertinent provision in the school law relating to the Board of Examiners is found in Illinois Revised Statutes 1949, State Bar Association Edition, Chapter 122, section 34-86 (Jones Ill. Stats. Ann. 123.1447), which provides in substance that the Board of Examiners, consisting of the Superintendent of Schools and two persons, approved and appointed by the Board of Education upon the nomination of the Superintendent, shall examine all applicants required to hold certificates to teach, and that the Board of Education shall issue such certificates to those who pass the required tests of character, scholarship, and general fitness. In construing the foregoing provision this court held in *People ex rel. Cook* v. *Board of Education,* 295 Ill. App. 41, that the Board of Examiners is vested with authority to establish rules and regulations for the purpose of testing all candidates as to character, scholarship, and general fitness."

In holding that the Board of Examiners had conducted a proper examination pursuant to its statutory authority, and that the court would not substitute its judgment for

that of examiners who under the statute were given the authority and responsibility to make such determinations, the court said at page 617:

> "It may well be that more scientific methods of giving oral tests than those used in the instant case by the Board of Examiners can be employed but, however meritorious another method may be, that we think does not present a question of law.
>
> "Our Supreme Court has repeatedly held that in discretionary matters the court will not substitute its judgment for that of an administrative body. (*Smith* v. *Board of Education,* 405 Ill. 143; *People ex rel. Illinois Highway Transp. Co.* v. *Biggs,* 402 Ill. 401.)"

The Appellate Court in its opinion then proceeds to dispose of each of the contentions of petitioner and shows there is no merit to any of them and concludes by saying at p. 620:

> "The rule is well established that the writ of mandamus will issue only when a clear and undeniable right is shown to exist (*Coughlin* v. *Chicago Park Dist.,* 364 Ill. 90). In the case at bar the allegations of the complaint fail to show a clear right to the writ of mandamus and therefore defendants' motion to strike the complaint as amended should have been sustained."

It is manifest that no federal question was passed on by the Appellate Court of Illinois. Its decision was put upon an independent non federal ground involving no federal question and of itself sufficient to support the judgment. It merely determined that the Board of Examiners had authority under the statute to pass rules and regulations in connection with examinations for persons seeking positions of principals; that the Board of Examiners did not abuse their discretion in the conduct of said examination; that the examination was conducted in conformance with the statute and that petitioner was not entitled to a

writ of mandamus compelling the defendants to issue a principal's certificate to her.

When the decision below is founded upon a state or local question a petition for certiorari will be dismissed. *Bell Telephone Co. of Penn.* v. *Van Dyke,* 296 U.S. 533, 80 L. ed. 379; *Preston* v. *Chicago,* 226 U.S. 447, 450, 57 L. ed. 293, 295; *White* v. *Leovy,* 174 U.S. 91, 95, 43 L. ed. 907, 909; *Kipley* v. *State of Illinois ex rel Akin,* 170 U.S. 182, 42 L. ed. 998, 1002; *Chicago & N. W. R. Co.* v. *Chicago,* 164 U.S. 454, 457, 41 L. ed. 511, 512; *Remington Paper Co.* v. *Watson,* 173 U.S. 443, 43 L. ed. 762; *Wilson* v. *State of North Carolina,* 169 U.S. 586, 592, 42 L. ed. 865, 870.

It has long been established by the decisions of this Court, commencing at least as early as the case of *Klinger* v. *Missouri,* 80 U.S. 257, 263, 13 Wall. 257, 263, 20 L. ed. 635, 637, that even where the state court judgment rests upon two grounds one of which is federal and the other non-federal in character, this Court will not take jurisdiction of the case if the non-federal ground is independent of the federal ground and adequate to support the judgment. *Arkansas Southern Railroad Co.* v. *German National Bank,* 207 U.S. 270, 275, 276, 52 L. ed. 201; *Enterprise Irrig. Dist.* v. *Farmers Mut. Canal Co.,* 243 U.S. 157, 164, 165, 61 L. ed. 644, 649; *Municipal Securities Corp.* v. *Kansas City,* 246 U.S. 63, 62 L. ed. 579; *Petrie* v. *Nampa and M. Irrig. Dist.,* 248 U.S. 154, 157, 63 L. ed. 178; *McCoy* v. *Shaw,* 277 U.S. 302, 303, 72 L. ed. 891,892; *Fox Film Corp.* v. *Muller,* 296 U.S. 207, 210, 80 L. ed. 158, 159.

Conclusion.

For the reasons herein set forth, respondent respectfully submits that the Supreme Court of the United States should decline to take jurisdiction and should deny the petition for certiorari.

Respectfully submitted,

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FILED
FEB 29
CHARLES ELMORE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1951

No. 523

PEOPLE OF THE STATE OF ILLINOIS EX REL MARY S. M. LOUGHRY,

Petitioner,

vs.

BOARD OF EDUCATION OF CITY OF CHICAGO,

Respondent

BRIEF IN OPPOSITION TO STATEMENT OF RESPONDENT MAKING AGAINST THE JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES.

MARY S. M. LOUGHRY,
Petitioner,
162 W. North Avenue,
Chicago 10, Illinois.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 523

PEOPLE OF THE STATE OF ILLINOIS EX REL MARY S. M. LOUGHRY,

Petitioner,

vs.

BOARD OF EDUCATION OF CITY OF CHICAGO,

Respondent

BRIEF IN OPPOSITION TO STATEMENT OF RESPONDENT MAKING AGAINST THE JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES.

May It Please the Court:

Petitioner respectfully presents to the Court, pursuant to Rule 38(4)(a) the following matters in opposition to the statement of Respondents making against the jurisdiction of the Supreme Court of the United States:

Petitioner underwent an examination in 1947 and 1948, divided into two parts—the first written, the second oral, for principal in the Chicago public schools. She achieved a passing grade on the written portion, but was accorded a grade less than satisfactory on the oral portion, which

consisted of a subjective evaluation by a panel of so-called examiners appointed under color of no statutory authority by an examining board designated by the Board of Education of the City of Chicago. The examining panel employed no standards and kept no record of its proceedings and no appeal whatsoever is provided from its determinations.

I. Respondent has noted in its subheading entitled Statement of the Case, but fails to present in the section designated Argument that Petitioner has not joined in this action members of the Board of Examiners. The relief sought by Petitioner is within the power of the Board of Education of the City of Chicago; the Board of Examiners is a creature of the Board of Education, and joinder of the Board of Examiners is not necessary.

The applicable statute, Section 34-86 of Chapter 122 of the Illinois Rev. Statutes (Bar Edition 1947) provides in part:

> ". . . the board of education shall issue gratuitously to those who pass a required test of character, scholarship and general fitness, such certificates to teach as they are entitled to receive. . . .
>
> ". . . the board of examiners shall hold such examinations as the board of education may prescribe. . . ."

Accordingly, primary authority to hold examinations and to issue certificates rests with the Board of Education and is within its discretion. It "may prescribe" examinations of such type and character as will, by the application of objective and reasonable standards and with a provision for adequate review designed to prevent arbitrary and capricious action, afford petitioner due process of law.

If the Court desire that members of the Board of Examiners be joined as parties to this action, then petitioner asks leave to amend the petition accordingly, but petitioner believes them not indispensable to the relief sought and therefore has not seen fit to make them parties hereto.

II. With respect to the contention of Respondent that no federal question was presented to or decided by the Illinois courts, petitioner shows that the quotations cited in her petition at page 2 are in fact part of the record in her case in the lower courts in the State of Illinois, duly certified and considered by the Supreme Court of Illinois. The two sections quoted from the record are as follows:

> 1. **"The petitioner therefore states that the relator has been unlawfully and illegally, and in violation of her constitutional rights,** deprived of a place on the list of eligibles for appointment as a principal in the Chicago public school system, upon which the defendants Hunt, Clark and Edwards were duty bound to place her, and has been deprived of a Certificate of Principal, which the defendant Board of Education was duty bound to issue to her." (Emphasis added.) (Abstract of Records, p. 11, par. 36.)
>
> 2. "To be sure the standards assailed as inadequate in the *Chicagoland Agencies* cases were those imposed by the legislature, whereas those involved here are standards, or rather the lack of them, embodied in the rules and regulations of an administrative agency. The same principles apply, however. See *Hamilton v. The Board of Regents of the University of California*, 293 U. S. 245 (1934). In both instances the basic question is the adequacy of standards and procedures, **and ultimately, in our system of government, the test of adequacy is a constitutional one."** (Emphasis added.) (Petition for Leave to Appeal to the Supreme Court of Illinois, p. 21.)

If a federal question was raised in the state courts, and that question involves due process under the Fifth and

Fourteenth Amendments of the Federal Constitution, and such question is not specifically resolved in favor of petitioner, it must be conceded that the protection guaranteed by those Amendments has not, in fact, been afforded the petitioner. There is, throughout the record in the lower courts no showing of a determination that due process was afforded to petitioner; accordingly she is justified in establishing a lack thereof in this Court.

III. In support of the contentions urged in the original petition, petitioner further wishes to call to the attention of the Court the decision of the Illinois Supreme Court in *Albert A. Chatkin et al.* v. *The University of Illinois, et al.*, handed down January 24, 1952, subsequent to the filing of petitioner's original petition, which decision (not otherwise available) is set out as Appendix A to this brief, at page 5.

In that case, the court affirmed the unconstitutionality of section 4(b) of the Illinois Public Accounting Act of 1943, set out as Appendix B to this brief, at page 15. That section contained provisions almost identical with those of section 34-86 of Chapter 122 of the Illinois Revised Statutes, 1947 Bar Edition, here in issue, and set out in Appendix A to petitioner's original brief, at page 17.

IV. Petitioner, further, begs to point out that respondents, in their reply brief at page 3 line 26, would seem to have the trial judge say that 583 candidates were administered the oral phase of the examination. Actually only 150 candidates (approximately 150) were given the oral phase, for the remainder of the 583 candidates (approximately 433) had failed earlier in the two days' gruelling written examinations, and therefore they were ineligible to take the oral phase of the examination.

Petitioner begs to point out, also, that respondents, in their reply brief at page 11, line 35 use the words "general

fitness" without defining the same, and that at page 12 line 8, respondents point out that the Appellate opinion states that no question of law is presented, despite the vagueness of the terms "general fitness". Is petitioner, therefore (and are others similarly situated), to be allowed to be stigmatized within the law as "unfit" to serve as school principal? Does not the passing of the written phase of the examination plus the obtaining of the highest possible efficiency rating as a classroom teacher for more than a score of school semesters preceding the examination, justify decoration with a scroll of merit for service to childhood and youth rather than false and poignant stigmatization? Should a Board of Education, within the law, be permitted to remand such a stigmatized candidate, who had given life-long service under said Board, to the morgue of classroom teaching, even as in September 1951 the mortal remains of John Rice, the Winnebago Indian who had given his life for his country and for an ideal—democracy, were remanded to the mortuary at Sioux City, Iowa (divested of the American flag which had draped his coffin during the American Legion's military graveside burial service), because the articles of incorporation of the Memorial Park Cemetery (25 miles from the Winnebago Reservation at Winnebago, Nebraska) "restrict it to members of the Caucasian race?" (*Time* magazine 58:26 S.10 '51.)

Or is the petitioner (and others similarly situated) to feign seeing nothing personal in such stigmatization, even as Sing Shen, a United States college graduate, and his Chinese American wife and their child and another child-to-be, are expected to accept as having no personal connotation the overwhelming vote against their being permitted to purchase the pretty white bungalow with pink shutters, in San Francisco's Southwood subdivision because of clauses in the property deeds forbidding sales of the properties to non-Caucasians? (*Time* magazine Feb. 25, 1952 at page

27). Is petitioner (and others in similar situation) to overlook the recent race riots in Cicero, Illinois, also?

This phrase, "general fitness", is so vague that with the lower Courts' lack of attention to said fact, which lack of definition of standards was one of petitioner's chief complaints in trial Court's brief, it would seem in point to note that the world-renowned author-satirist, Lewis Carroll, in his renowned satires, "Alice in Wonderland" and "Through the Looking-Glass" has his mouthpiece, Humpty Dumpty, treat such elastic expressions as "general fitness" in the following dialog:

> ". . . and shows that there are three-hundred and sixty-four days when you might get un-birthday presents—"
>
> "Certainly", said Alice.
>
> "And only *one* for birthday presents, you know. There's glory for you!"
>
> "I don't know what you mean by 'glory'," Alice said.
>
> Humpty Dumpty smiled contemptuously. "Of course you don't—till I tell you. I meant 'there's a nice knock-down argument for you!' "
>
> "But 'glory' doesn't mean 'a nice knock-down argument,' " Alice objected.
>
> "When *I* use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean—neither more nor less."
>
> "The question is," said Humpty Dumpty, "which is to be master—that's all."
>
> Alice was too much puzzled to say anything . . ." and so it petitioner!

In petitioner's instant case, race and color would not seem to be the connotation in "general fitness". However, the words could mean anything inasmuch as no standards are established, as was charged in trial Court brief. The words could run the full gamut of meanings from such items as race and color to failure or refusal on the part of a candi-

date to traffic, perhaps, with illegal syndicates who might, perchance, take over a school system to exact tribute and fill its coffers.

The founding fathers of our republic, in their wisdom, constituted our government on the doctrine of separation of powers, and they applied the principle of checks and balances. That document, which they framed in 1787, [whether it is spelled with "Caps" or "l.c." (lower case) letters, as the printers designate them], and the rights guaranteed by that document are what people refer to under our dual system, when they speak of the constitution and of their rights guaranteed therein; state's rights are referred to as such, and state's documents are referred to as such.

Wherefore petitioner humbly prays that just as our Chief Executive, to his redounding credit, asserted jurisdiction and accorded Winnebago hero, John Rice, honorable military burial in Arlington Cemetery, so will our honorable Supreme Court assert its jurisdiction, construed to it by our founding fathers, and use instant case as a test case to set to rights the matter of oral examinations in public personnel selection, and to place restraints upon so-called examiners who, here, there and elsewhere throughout our land, sit, like Humpty Dumpty, in smug contemptuousness, judge their provenly qualified fellow-citizens and infringe the personality rights of those citizens to reveal their significance as well as their rights to indulge their capacities, democratically, in fields of their own choice and not in fields of others' dictation merely on presumption of "general unfitness".

Conclusion

For the reasons set forth above and the reasons set forth heretofore, it is respectfully submitted that the petition for a writ of certiorari should be granted.

MARY S. M. LOUGHRY,
Petitioner,
162 W. North Avenue,
Chicago 10, Illinois.

February 29, 1952.

APPENDIX A

ALBERT A. CHATKIN, et al., *Appellants,*

vs.

THE UNIVERSITY OF ILLINOIS, et al., *Appellees*

January 24, 1952

Mr. JUSTICE BRISTOW delivered the opinion of the court:

Plaintiffs, Albert A. Chatkin and other public accountants, are prosecuting this appeal from a decree of the circuit Court of Cook County, in a proceeding challenging the constitutionality of the Public Accounting Act of 1943, wherein the court held section 4(b) of the act unconstitutional, and enjoined defendants from enforcing it. Defendants, University of Illinois *et al.*, originally filed a cross appeal from that portion of the decree holding section 4(b) unconstitutional; however, after the legislature amended that section of the act in June, 1951, defendants dismissed their cross appeal.

Although plaintiffs' complaint challenged the constitutionality of the entire act, their argument on appeal has been limited to section 4, and the primary issue presented herein is whether that section of the Public Accounting Act of 1943 (Ill. Rev. Stat. 1947, chap. 110½, par. 28), or any part thereof, violates the constitutional doctrines of separation of powers, equal protection of the laws, and due process of law.

From the uncontroverted facts it appears that plaintiffs, other than plaintiff Bestock, whose special circumstances will be considered hereinafter, are public accountants, licensed under the waiver provisions of section 10(1)(b) of the Public Accounting Act of 1927, (Ill. Rev. Stat. 1937, chap. 110½, par. 16), whereby persons who had practiced as public accountants in Illinois for one year prior to the enactment of that act could obtain certificates as public accountants without taking the examination required by that statute and given by the Department of Registration and Education. This 1927 act was comprehensively re-

pealed by the Public Accounting Act of 1943. Under section 4 thereof, it was provided, in substance, that persons licensed as public accountants in Illinois could apply for certificates as certified public accountants if they held their certificates as public accountants on the basis of written examinations under the 1927 act, or on the basis of C.P.A. certificates issued by other States. However, those who received their public accountant certificates without having taken an examination could procure certificates as certified public accountants only if they passed a special oral or written examination under section 4(b), or took the regular C.P.A. examination under section 2 of the act.

Plaintiffs contend in their complaint that section 4(b), which provided for the special examination, as originally enacted, violated the doctrine of separation of powers by delegating legislative functions to a special board of examiners, without providing any standards for such examinations, in violation of Article III and section 1 of article IV of the Illinois constitution, and, consequently, section 4(a)(2), which is germane to section 4(b), must necessarily be deemed void also. Moreover, plaintiffs allege, the classification established by section 4, between public accountants who received their public accountant certificates on the basis of examinations and those who received their public accountant certificates without having taken any examination, unjustly discriminates against plaintiffs, thereby denying them equal protection of the laws in violation of section 1 of the fourteenth amendment of the Federal constitution, and of section 22 of article IV of the Illinois constitution, and depriving them of their property without due process of law in violation of the fourteenth amendment of the Federal constitution and section 2 of article II of the Illinois constitution.

It is urged, on behalf of plaintiff Bestock, who received his public accountant certificate on the basis of passing an examination given by the Department of Registration and Education under the act of 1927, but failed to apply for the C.P.A. certificate within one year after the passage of the 1943 act, that the time limitation therein is an unconstitutional deprivation of his rights.

Defendants deny that the 1943 Public Accounting Act infringed any constitutional doctrines, and alleged in their answer that, according to the legislative history respecting public accountants and certified public accountants, it has been the consistent policy of the State under the acts of 1903, 1927 and 1943, hereinafter analyzed, that persons desiring to style themselves as certified public accountants must pass an examination, and that plaintiffs, except plaintiff Bestock, have voluntarily deprived themselves of this privilege by not taking any examinations at any time, but chose, instead, to secure their licenses solely by virtue of the waiver provision in the 1927 act. Moreover, defendants allege, the 1943 act did not arbitrarily classify applicants for the C.P.A. certificate into favored classes, but on the contrary it is plaintiffs who are seeking to have the court create a privilege by permitting them to obtain C.P.A. certificates without ever taking an examination under the statute, in violation of the legislative policy. The 1943 act, furthermore, in no way invalidates plaintiffs' certificates as public accountants under the 1927 act or modifies the extent of the practice in which they may engage, and thereby deprives them of no existing rights.

The circuit court sustained plaintiffs' motion to strike defendants' answer, denied defendants leave to file an amendment alleging the character of the examination given under section 4(b), and held that section 4(b) as originally enacted improperly delegates legislative power to the special board which was to conduct the examination, since the statutory provision contained no statement of standards, scope or content of the examination to be given under section 4(b), or any mandatory provision that any rules be made from which a court might determine the standards, scope or content of such examination.

Inasmuch as the court did not expressly hold the remainder of section 4 unconstitutional, plaintiffs have appealed from the decree, urging that section 4(a)(2) is so germane to section 4(b) that it must, of necessity, fall with it, and, furthermore, that section 4 unconstitutionally discriminates against plaintiffs.

During the pendency of the appeal, section 4(b) was amended, (Ill. Rev. Stat. 1951, chap. 110½, par. 28), and defendants, no longer obliged to sustain the constitutionality of the original section, dismissed their cross appeal. They contend, however, that the circuit court did pass upon and sustain the constitutionality of section 4(a)(2) and the remainder of section 4. In fact, defendants maintain, unless the court did pass thereon, plaintiffs have mistaken their remedy and the present appeal could not properly lie.

It is, therefore, incumbent upon this court to ascertain first the scope of the decree of the circuit court, and then determine, in the light of the legislative history and judicial precedent whether section 4, or any part thereof, violates plaintiffs' constitutional rights.

From an examination of the sequence of hearings in the record, it appears that although the court requested the parties to submit briefs upon only the issue of the constitutionality of the original section 4(b), which the court deemed applicable to plaintiff's status, nevertheless, the court, after examining section 4(a)(2), unequivocally refused to hold it unconstitutional, and struck from the decree drafted by plaintiffs a statement holding that section unconstitutional, despite plaintiffs' argument that section 4(a)(2) and section 4(b) were so closely related that if one provision were held unconstitutional the other must also be deemed void. The court predicated its decision holding section 4(b) unconstitutional, not on the fact that an examination was required of persons in plaintiffs' class, but on grounds peculiar to section 4(b), i.e., that it improperly delegated legislative power to an administrative agency without prescribing proper standards.

Admittedly the record of the hearings does not reveal oral argument on the issue of whether section 4(a)(2) unjustly discriminated against plaintiffs by requiring them to take an examination, but that issue was raised by the pleadings, and the decree has the legal effect of passing upon and rendering *res judicata* all matters at issue, even though the form of the decree does not expressly so provide. (*Phelps* v. *City of Chicago*, 331 Ill. 80; *Randolph* v. *Hinck*, 288 Ill. 99.) The legal effect of the decision holding only section

4(b) unconstitutional in a proceeding where the constitutionality of the entire act is challenged is that the remainder of the act is constitutional.

In adjudging the propriety of this determination by the circuit court, the terms and provisions of section 4, must be analyzed in the background of the legislation regulating public accountants and certified public accountants. The act of 1903 did not regulate the practice of public accounting, but provided that no person could designate himself as a certified public accountant without having the qualifications set forth in the law, and without first passing an examination given under the law by the University of Illinois. The act did except from the examination requirement persons who for five successive years prior to 1903 had practiced as public accountants, one year of which was conducted in Illinois.

That act remained in effect until the passage of the act of 1943. However, in 1927 the legislature enacted a statute (Ill. Rev. Stat. 1937, chap. 110½, pars. 7-24,) which did not repeal the act of 1903, nor in any way further regulate the use of the title of C.P.A., but, in substance, required persons offering to serve as public accountants to obtain certificates as public accountants from the Department of Registration and Education. These certificates could only be obtained upon passing an examination required by section 6 of the 1927 act, with the exception that they were automatically issued to holders of C.P.A. certificates from the university under the 1903 act, and to persons within the waiver clause of section 10(1)(b) who had been engaged in the practice of public accounting in Illinois for at least one year prior to the passage of the 1927 act. As hereinbefore noted, plaintiffs, other than plaintiff Bestock, obtained their certificates under this waiver provision.

Thus it appears that until the passage of the act of 1943, in order to be designated as a certified public accountant, it was necessary to pass an examination given by the University of Illinois under the 1903 act, but in order to practice public accounting generally, it was necessary to obtain a public accountant certificate, either by virtue of passing an examination given by the Department of Registration and

Education, or by virtue of qualifying under the waiver provisions without taking any examination, or by having passed a C.P.A. examination given by the university or by a foreign State.

In 1943, the legislature provided that all persons in these groups could continue to practice public accounting; that all public accountants who obtained their certificates under the act of 1927 as a result of passing an examination, either in Illinois under the 1903 or 1927 acts, or by an equivalent examination given by some other State, could style themselves as certified public accountants upon making application for such certificates; and that the public accountants who obtained their certificates without taking an examination could secure certificates as certified public accountants by passing a special examination. This latter group was not compelled to take either the special examination or the regular C.P.A. examination, but could continue to practice public accounting under their same title of public accountants.

Prior to the 1951 amendment to section 4(b) that section referred only to a "written or oral examination to be given by a special board of five examiners," and specified the qualifications of the examiners and that a majority vote of the full membership of the board shall be required to approve or reject any applicant.

It is an established constitutional principle, requiring no extended citation of authority that the legislature may delegate to boards created by it, the administration of statutes involving the conduct of examinations and the issuance of licenses, provided adequate standards are indicated so that no arbitrary action may be taken under the terms of the statute. *People* v. *McGinley*, 329 Ill. 173.

In *People* v. *Brown*, 407 Ill. 565, where the court held unconstitutional certain sections of the Illinois Plumbing License Law on the ground that the special examining board had sole discretion as to the administration of the statute, and also the right to determine what the law is and apply it to one and not another in like circumstances, the court stated: "Should a statute clothe an administrative officer with the discretion as to the administration of the statute and also clothe him with the right to determine what the law

is, or give to him the opportunity to apply it to one and not apply it to another in like circumstances, either would constitute an unlawful delegation of legislative power."

A determination that section 4(b), prior to the 1951 amendment, improperly delegated legislative power would not necessitate holding section 4(a)(2) unconstitutional, as plaintiffs assert. The fact that part of an act is unconstitutional does not require that the remainder shall be void unless all the provisions are so connected as to depend upon each other. (*McDougall* v. *Lueder*, 389 Ill. 141.) If, after the unconstitutional portion is stricken, the remaining provisions are complete and capable of being executed independently of the void portion, the remainder of the act must properly be sustained.

Examination of the Public Accounting Act of 1943 reveals that even if section 4(b) were eliminated from the act there still remains, both in section 4 and in the remainder of the statute, a complete plan of regulation capable of being administered in the manner and for the purposes intended. The legislative purpose of section 4(a)(2) was to permit public accountants, who secured their public accountant certificates by virtue of passing an examination given by the State in subjects which, since 1903, had been required for certified public accountants, to apply for certificates as certified public accountants. The rights of this group were not impaired or otherwise affected by the invalidity of a provision allowing another group of public accountants, who secured their public accountant certificates by certain waiver provisions and without passing any examinations, to secure C. P. A. certificates by passing a special examination. Nor can it be contended that the legislature would not have allowed the first group to apply for the C. P. A. certificates unless the second group were permitted two methods of acquiring C. P. A. certificates.

The only effect of holding section 4(b), as originally enacted, unconstitutional would be to deprive the group of public accountants referred to therein of an additional means of securing C. P. A. certificates, and would in no way conflict with the method of regulation provided by the legislature. Hence, the circuit court did not err in refusing

to hold section 4(a)(2) unconstitutional merely because it concluded that section 4(b) as it then stood was invalid, since the sections are separable and independent.

Plaintiffs assert further that section 4 denied them equal protection of the laws by unjustly discriminating against them by creating a favored group—public accountants who received their public accountant certificates by virtue of passing, not a C. P. A. examination but merely a public accountant examination—and allowing the favored group to become C. P. A.'s without taking an examination, but requiring other public accountants to take a special examination in order to secure a C. P. A. certificate.

It is evident from our review of the legislative history of accounting acts that the passing of an examination has been an essential requirement to procure a C. P. A. certificate since 1903. Plaintiffs, except plaintiff Bestock, have elected not to take any such examination and have relied solely upon the waiver provision under the 1927 act as a basis for their status as public accountants. The fact that the legislature in 1927 permitted accountants with one year experience to become public accountants, without an examination, does not constitute a legal justification for demanding that the legislature must thereafter give them the privilege of becoming certified public accountants without any examination, contrary to the legislative policy of the State.

The fact that other public accountants who secured their public accountant certificates by examination are allowed to become certified public accountants without taking a further examination does not deprive plaintiffs of any rights, since there is a reasonable and proper basis for distinguishing between the two groups. Under the act of 1927 the educational qualifications for persons taking the examination for the public accountant certificate were the same as those for persons taking the C. P. A. examination, and the same subjects were covered in the examinations, except that one was given by the University of Illinois and the other by the Department of Registration and Education. Therefore, it was not unreasonable for the legislature to permit those holding public accountant certificates as a result of passing

an examination, demonstrating their qualifications, to be admitted into the C. P. A. class without another examination.

There was, however, good and sufficient reason for not automatically permitting the holders of public accountant certificates, by virtue of a waiver clause, to pass into the C. P. A. class, inasmuch as there was no assurance of their qualifications, education and experience. Such had not been previously demonstrated in any type of examination. Accordingly, the legislature required of them a special examination.

It is established that a classification founded upon real differences is not unreasonable, and that the discrimination which results therefrom is not arbitrary or a violation of due process. (*Roberts & Schaefer Co.* v. *Emmerson*, 271 U. S. 50.) The Illinois courts have reiterated the tests for determining the constitutionality of a classification. In *Stewart* v. *Brady*, 300 Ill. 425, the court stated: "Its classification of the objects of legislation is not required to be scientific, logical or consistent if it is reasonably adapted to secure the purpose for which it is intended and is not purely arbitrary. * * * It [classification] cannot be disturbed by the courts unless they can see clearly that there is no fair reason for the law that would not require with equal force its extension to others whom it leaves untouched. It is competent for a legislature to determine upon what differences a distinction may be made for the purpose of statutory classification between objects otherwise having resemblance, though such power cannot be arbitrarily exercised and the distinction must have a reasonable basis."

Courts have recognized, as a legitimate basis of classification, the passing of an examination. In *People* v. *Walder*, 317 Ill. 524, the court upheld the constitutionality of a provision which permitted college graduates who passed an examination for admission into the medical corps of the Army or Navy to practice without any further examination required for others before a license could be issued. The court stated that this distinction was predicated upon a valid basis, since the competency of the exempted physi-

sians was assured by the exactions required of them before they would be admitted into the medical corps, and therefore, the classification was not arbitrary.

Similarly, in *State* v. *Broden*, 181 Minn. 341, 232 N. W. 517, the Minnesota court upheld a classification predicated upon whether an examination was taken at the time a license was issued. The court therein stated: "Some legislative bodies have made the line of demarcation between the old and new standard a certain number of years practice. And this has been held valid, although, where a fixed number of years is made the dividing line, there is room for the argument that there is an arbitrary classification in excluding the one who has practiced a day or week short of the fixed period. It would seem the fact of having taken the examination required by the law at the time the license to practice was issued is less subject to the charge of arbitrariness or unreasonableness than fixing the time of demarcation upon a certain period of practice."

While the legislature might have classified accountants eligible to apply for the C. P. A. certificate upon whether they did or did not hold public accountant certificates, that was not the only permissible classification. The classification adopted herein, on the basis of whether an examination was taken in qualifying as a public accountant, is reasonably related to the legislative purpose and predicated upon real differences, recognized as valid and reasonable by the courts of this and other States.

It is our judgment, therefore, that the classification imposed by section 4 of the Public Accounting Act of 1943 did not unjustly discriminate against plaintiffs, or in any way deprive them of the equal protection of the laws or due process of law.

With reference to plaintiff Bestock who took the examination as public accountant under the 1927 act, but neglected to apply for his certificate in the year specified in the statute, it is well established that the legislature may validly set a time limit within which a waiver provision may be exercised. (*Krebs* v. *State Veterinary Board*, 154 Mich. 500, 118 N. W. 4.) The court, in the *Krebs* case, stated:

"The general purpose of the act, and the particular provisions referred to, would in any event require one like relator to apply for registration within a reasonable time after the law became operative. The legislature has determined what is a resonable time." There is no showing that the time allowed by the legislature was insufficient for the exercise of the privilege, and therefore the failure of plaintiff Bestock to exercise this privilege afforded him no just cause for complaint.

Applying the foregoing analysis of this cause, the decree of the circuit court is affirmed.

Decree affirmed.

(Copied from proofs supplied by Edwin H. Cooke, Bloomington, Illinois, Reporter of Decisions for the Supreme Court of the State of Illinois.)

APPENDIX B

Section 28-4(b) of Chapter 110½ (Public Accounting Act of 1943) of the Illinois Revised Statutes, 1947 Bar Edition, provides for the licensing of public accountants who shall—

"(b) Make application within ten (10) years following the passage of this Act, pay a fee of Twenty-five ($25.00) Dollars and who at the time of such application have held such certificates of registration as public accountants for at least ten (10) years, have been engaged in the practice of public accounting in this State for at least ten (10) years, and who shall successfully pass a written or oral examination to be given by a special board of five (5) examiners to be appointed by the University with the approval of the Department, two (2) of whom shall have been registered public accountants of this State at the date of passage of this Act, two (2) of whom shall have been registered public accountants and also certified public accountants of this State at the date of passage of this Act, and one (1) of whom shall have been a registered public accountant of

this State at the date of passage of this Act who has received or is entitled to receive a certificate as a certified public accountant under sub-section (a)(2) of this section. Vacancies in this special board shall be fil[l]ed by appointment of individuals having the same status and qualifications as specified herein for the original appointees. A majority vote of the full membership of this special board shall be required to approve or reject any applicant."

MAR 1 5 1952
CHARLES ELMORE CROPLEY
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 523

PEOPLE OF THE STATE OF ILLINOIS EX REL. MARY S. M. LOUGHRY,

Petitioner,

vs.

BOARD OF EXAMINERS: HAROLD HUNT, ALFRED CLARKE, AND PAUL EDWARDS, OF CITY OF CHICAGO BOARD OF EDUCATION,

and/or

CITY OF CHICAGO BOARD OF EDUCATION,

Respondent

PETITION FOR REHEARING

MARY S. M. LOUGHRY,
Petitioner,
162 W. North Avenue,
Chicago 10, Illinois.

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Citations

Cases:

1. *Adler* v. *Board of Education of City of New York*, Supreme Court of United States No. 8, October Term, 1951 2

Miscellaneous:

1. Certain Personnel Practices In The Chicago Public Schools—Report of An Investigation by National Committee For The Defense of Democracy Through Education of The National Education Association 7
2. Webster's New International Dictionary, 2nd ed., Unabridged—1934 G & C Merriam copyright.

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and/or

CITY OF CHICAGO BOARD OF EDUCATION,

Respondent

PETITION FOR REHEARING

Petition For Rehearing Of Order Denying Petition For Writ of Certiorari

Petitioner, Mary S. M. Loughry, prays that this Court grant rehearing of its order of March 3, 1952, denying the petition for writ of certiorari in the Supreme Court of the United States, October Term, 1951, No. 523, and that a writ of certiorari issue to review the judgment in the

Supreme Court of Illinois denying appeal from the judgment of the Appellate Court of Illinois First District, June Term A. D., 1950, in the above entitled case as prayed for in the petition filed January 10, 1952.

Reasons for Granting Rehearing and Issuing the Writ

1. On the — day of this Court's order of March 3, 1951, denying petitioner's prayer for writ of certiorari there came from the Court a decision, a section of which would seem to support petitioner's argument in prayer for writ of certiorari. The case was No. 8—October Term, 1951, *Irving Adler, George Friedlander, Mark Friedlander, et al., Appellants v. The Board of Education of the City of New York.* The case bears on the matter of denial of freedom of speech, etc., while petitioner's case bears on the matter of denial of property rights. In both cases the matter of screening public school teachers is paramount and therefore the cases are analagous.

In re: Adler et al. and the Feinburg Law Mr. Justice Minton writing the Court's opinion, states in above-cited case No. 8 at page 6, line 16:

> "They may work for the school system upon the *reasonable terms* (emphasis added) laid down by the proper authorities of New York. If they do not choose to work on such terms, they are at liberty to retain their beliefs and associations and go elsewhere."

It is the utter lack of *reasonable terms* which petitioner, in her petition for writ of certiorari, charges made the so-called oral examination challenged by petitioner arbitrary and capricious.

Mr. Justice Minton and the concurring justices stipulate there must be *reasonable terms.*

Even Mr. Justice Black, dissenting, in same above-cited case, No. 8, condemns, at page 1, line 6, of his dissent lack of terms (or standards) in these words:

> ". . . except what a transient majority happen to approve at the moment."

Webster's New International Dictionary, second edition, unabridged, throughout its numerous definitions of the word "terms" stresses the connotation of definite conceptions, precise limitations.

Therefore petitioner prays that the Honorable Justices will see fit to predicate a granting of the petition for rehearing on the support given to arguments in her petition for certiorari by Mr. Justice Minton's specification of reasonable terms in his writing of the Court's opinion in above-cited case. Otherwise, if persons who cannot meet *reasonable terms* of a board of education are to go elsewhere, what are persons to do who are arbitrarily and capriciously confronted in oral examinations with no *reasonable terms?*

2. The question continues to be one of substance and of wide import as is shown in Appendix, herein, in the Report of an Investigation by the National Education Association called *Certain Personnel Practices in the Chicago Public Schools.* The oral examination in question by petitioner was part of the 1946 Principals' Examination, which differed in no material respect from that of 1936 exposed in the above-mentioned report at page 37 *et seq.* (Section 5 at page 39 being especially explicit). Superintendent Johnson, under whom the 1936 Principals' Examination was conducted was disbarred from membership in the National Association of Education, and his life-time honorary membership therein was revoked, following publication of the Report above-mentioned and appended herein. The 1946 Principals' Examination—none intervened in the ten-year

lapse of time—was conducted under Superintendent Hunt, who still enjoys favor in the National Education Association despite the fact that although he was appointed superintendent to correct the faults of the deposed Superintendent Johnson he, Superintendent Hunt, ended with three law suits against his conduct of the 1946 Examination, exactly the same number his predecessor drew after the 1936 Examination, exposed as above-indicated.

Exactly how arbitrarily and how capriciously the so-called oral examination in which he was an examiner was conducted is delineated in above-cited Report (Appendix A), at page 20, the last paragraph, where J. J. Zmrhal, as quoted from his sworn affadavit.

How widespread the public dissatisfaction is with the mismanagement of the Chicago Schools is attested in the last paragraph at page 25 in the above-mentioned, appended Report, where the National Education Association's investigators say that some 29 civic and educational groups denounced the transfer [of one principal] as "further evidence of a school system deeply entrenched in politics."

As further evidence that this request for rehearing of petition for writ of certiorari is of widespread significance, dissenting Board of Education member, Mrs. Walter Heineman, at page 26, paragraph 5, id, says:

> "In my files are pounds of letters of protest received over the years. They have slight effect. If there is not a political remedy for such an abuse of democratic government, then democracy is a failure."

Petitioner has gone to heavy expense to help procure this political remedy ("politics" being here used as the science of government) through the Supreme Court of the United States. May petitioner's efforts avail where letters of protest to Board of Education Members have failed.

In the Summary of Recommendations in the above-mentioned, appended Report, the fifth recommendation, at page 65, is that:

> "As far as possible, the injustices done to individuals by the [Chicago] school system should be corrected. A policy of just and considerate treatment of employees should be rigidly followed."

The 1946 Examination made no attempt to correct the injustice done to petitioner and others in the 1936 Examination.

Conclusion

For the reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that rehearing be granted and that, upon such rehearing, a writ of certiorari issue to the Supreme Court of Illinois.

Respectfully submitted,

MARY S. M. LOUGHRY,
Petitioner, per se.

Certificate of Good Faith and Restriction of Grounds

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 33 of the rules of this Court.

MARY S. M. LOUGHRY,
Petitioner, per se.

March 18, 1952.

REPORT OF AN INVESTIGATION

Certain Personnel Practices in the Chicago Public Schools

NATIONAL COMMISSION FOR THE DEFENSE OF DEMOCRACY THROUGH EDUCATION

of the

NATIONAL EDUCATION ASSOCIATION OF THE UNITED STATES

May 1945

National Commission for the Defense of Democracy Through Education

Alonzo F. Myers, *Chairman*
School of Education
New York University
New York, N. Y.

Virginia Kinnaird, *Vice-chairman*
Central High School
Fort Wayne, Ind.

John W. Dodd
Superintendent of Schools
Freeport (L. I.), N. Y.

Kate Frank
Senior High School
Muskogee, Okla.

Willard E. Givens
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Ernest O. Melby
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1201 Sixteenth Street, N. W.
Washington 6, D. C.

The National Education Association, with its affiliated organizations, represents over 900,000 American teachers and is, therefore, in a position to speak for the teaching profession of the United States. The National Education Association is deeply concerned over the welfare of education in Chicago not only because of the large number of children and teachers involved but also because of the influence of educational procedure and practice in Chicago upon other sections of the United States.

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Investigating Committee

Donald DuShane — Mark A. May

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May 1945
National Commission for the Defense of Democracy Through Education
of the
National Education Association of the United States
1201 Sixteenth Street, N. W. Washington 6, D. C.

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Introduction

During the summer of 1944 the National Education Association received from the following organizations formal requests to investigate various aspects of the administration of the Chicago public schools: The Woman's City Club of Chicago, the City Club, the Cook County League of Women Voters, the Chicago Division of the Illinois Education Association, the Illinois Education Association (stating that an investigation was "in order"), the Chicago Citizens Schools Committee, the National Council of Teachers of English, and the Ethics Committee of the National Education Association. After a study of these requests, the NEA Executive Committee asked the National Commission for the Defense of Democracy Through Education "to give serious consideration to the matter of a thorough investigation of personnel practices in the Chicago schools" and to make preliminary inquiries thereto.

Representatives of the Commission made several trips to Chicago for the purpose of looking into the circumstances prompting these requests for an investigation. Upon the recommendation of the representatives, the Commission's Executive Committee voted unanimously at its meeting on October 9, 1944 "to undertake an investigation of personnel practices in the Chicago school system."

Such an investigation is directly in line with three of the purposes for which the Representative Assembly of the National Education Association created the Commission in 1941, namely: (1) to bring to the general public a fuller understanding of the importance of a better education for all of our people if our American democracy and way of life are to be maintained; (2) to defend teachers, schools, and the cause of education against unjust attacks and to investigate charges involving teachers, schools, educational methods, and procedures, justly, fearlessly, and in the public interest; (3) to work for educational conditions essential for the perpetuation of our democracy.

In order to assure an impartial and unbiased inquiry, the Commission appointed an Investigating Committee of recognized leaders in education with wide experience in various educational fields and free from any possible influence or control by individuals or organizations in Chicago. Appointed on the Investigating Committee were Dr. Mark A. May, director of the Institute of Human Relations, Yale University, New Haven, Connecticut; Dr. Orville C. Pratt, former superintendent of the public schools of Spokane, Washington, and past-president of the National Education Association; Virginia Kinnaird, classroom teacher of Fort Wayne, Indiana, a member of the Indiana State Board of Education and vice-chairman of the National Commission for the Defense of Democracy Through Education; and Donald DuShane, secretary of the National Commission for the Defense of Democracy Through Education and former president of the

National Education Association. The Committee is particularly indebted to Harold M. Perry, member of the faculty of the Connecticut State Teachers College, who ably assisted in gathering data in Chicago pertinent to the investigation.

The investigation was begun in November 1944 and was completed in May 1945. A number of the organizations which requested the investigation cooperated with the Committee in every way possible, making available records, files of newspaper clippings, affidavits, and other evidence. After the investigation was initiated the following groups approved the investigation and offered their services: the Chicago Teachers Union; the Council of Social Agencies of Chicago; the Chicago Woman's Club; the Associated Clubs of Woodlawn, Inc.; the Association for Family Living.

Public hearings were not held but members of the Committee and investigators representing the Committee interviewed a large number of teachers, principals, and interested Chicago citizens who had information of value to the investigation. The Committee also had other investigations made of an undisclosed nature. Although the Committee did not have the power to subpoena witnesses nor to put them under oath, it was able to secure documented and other information sufficient for its purposes. Further sources of information included the annual reports of the Superintendent of Schools, the official reports of the proceedings of the Board of Education, the school laws of Chicago and of the State of Illinois, the statements of standards of the North Central Association of Colleges and Secondary Schools and the American Association of Teachers Colleges, the court records in cases which included court action and the complete files of a number of publications and of several organizations.

The Board of Education and the Superintendent of Schools refused to cooperate with the Investigating Committee. All records of the Chicago schools except the published Superintendent's reports and the Board proceedings were closed to the Committee and members of the Committee were barred from visiting any of the schools or classrooms for the purpose of obtaining first-hand information. The National Education Association has made many investigations and this was the first instance where its official representatives have not been courteously received or have been refused admittance to a public school.

Notwithstanding the attitudes of the Board of Education and the Superintendent, the Committee has obtained ample evidence dealing with school personnel practices upon which to make its report and base its conclusions.

The various sections of the report are not arranged in order of importance nor are they necessarily in logical sequence. They do not constitute a survey of the Chicago school system but have been planned to present certain personnel practices, particularly those which are injurious and in need of correction.

The sections on the transfers of John DeBoer, Raymond Cook,

Butler Laughlin, and others might well be issued as individual reports because each represents an indictment of the school administration which would justify a separate investigation.

The sections of the report contain numerous specific recommendations which are not included in the general recommendations at the conclusion. These are nonetheless important and worthy of thoughtful consideration.

The sources of information underlying a number of the statements and conclusions are not given in the body of the report but are in the files of the Commission. This omission of sources is necessary. Many of the school employees, parents, and others who furnished information and evidence to the Investigating Committee did so on condition that their names not be mentioned in the report. They, justifiably in many cases, are afraid of reprisals. The Committee has made every effort to protect the sources of its information as it realizes that freedom of speech is often effectively discouraged by the school administration of Chicago.

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The report of the Investigating Committee on personnel practices in the Chicago schools has been given careful consideration and, with certain alterations and additions, is herewith issued as a report of the National Commission for the Defense of Democracy Through Education of the National Education Association. The report is published by the Commission in the belief that the quality and extent of American education now may determine the soundness, even the continuance, of our democracy. Some of the personnel practices in the Chicago schools are undemocratic and even fascistic in nature and they are, or should be, of deep concern not only to the people of Chicago but to the nation as a whole.

The Commission wishes to take this occasion to express publicly its deep appreciation of the professional public service rendered by the Investigating Committee in the face of opposition, criticism, and even insult from members of the administration of the Chicago schools.

Communications with the Superintendent and the Board

Immediately upon appointment of the Investigating Committee, the secretary of the National Commission for the Defense of Democracy Through Education wrote to Dr. William H. Johnson, superintendent of the Chicago schools, and to James B. McCahey, president of the Board of Education, announcing the members of the Committee and requesting the cooperation of the school administration and of the Board. This letter, dated December 8, 1944, read in part as follows:

In making its investigation, the Committee desires to get full information from every possible source in order to aid it in making a sound, professional and impartial report. The first action taken by the Committee is to invite you and the members of the Board of Education to cooperate with us, to make available school records and information and to give us free access to school buildings and personnel.

At its meeting on December 20, the Board of Education considered this letter from the Investigating Committee and adopted the following statement of noncooperation with one dissenting vote (that of Mrs. Walter F. Heineman):

(44326-A) The Board of Education of the City of Chicago is charged by law with the responsibility of conducting the schools of the City of Chicago. It has shared that responsibility only with its duly appointed Superintendent of Schools and teaching staff, which has, with a few exceptions, cooperated 100% in making the school system of the City of outstanding excellence in the educational world. The fact that during the past score years fewer than a dozen complaints have been made by individuals concerned in certain administrative measures, is evidence of the fact that the 13,000 members of the teaching staff have rightly reposed confidence in the Board of Education. They have also found their unions and their other organizations diligent in the protection of their interests, and they have achieved satisfactory results in their dealings with the Board of Education.

As the result of this cooperation it has been possible to develop not only the usual school facilities of a system of the size of the Board of Education of the City of Chicago, but also to make the schools of the City of Chicago models for the development of an educational program of recognized superiority in the field of vocational training, thereby making the City of Chicago the center of skilled industrial man-power of inestimable value in the war effort. The school board has weathered many attacks from political and notoriety-seeking organizations and it is time that morale be built rather than destroyed.

Under these circumstances there is no occasion for a fishing investigation, such as proposed, of the educational administration of the Chicago schools, thereby upsetting the whole organization of the teaching profession. This is especially true where such an investigation finds its inspiration with certain local groups whose declared purpose has been to discredit the organization of the Chicago Public School system.

Since before the last November election this so-called "Committee on inquiry" from other states has been issuing notices, giving out interviews, making addresses, as a smoke screen for personally interested people who really instigated the inquiry.

Just a year or so ago this same group made a similar attempt to investigate the schools of the City of New York which was without success for the same reasons as I have stated.

The people really residing within the confines of Chicago recognize the tremendous improvement in the finances and physical structure, as well as the educational standards of the Chicago Public Schools. They are not interested in these con-

tinuous so-called investigations by other than authoritative sources. For instance, now all our high schools have been approved by the North Central Association of Colleges, the duly constituted accrediting agency for such purposes. On the other hand, investigations by representatives of an organization which includes in its membership only a small minority of the teachers of Chicago or of the rest of the country have contributed in the past nothing to the welfare of the teachers nor of the children in the schools investigated by them. It would be more fitting if this organization devoted its energies to making some contribution to the war and defense effort instead of trying to make this unwarranted inquiry and thereby hamper a patriotic institution which is making a vital contribution to every phase of the war effort.

In view of the foregoing, the proposed investigation will serve no good purpose but, on the contrary, will be harmful to the present satisfactory operation of the schools. I therefore move that this communication be placed on file and that the Superintendent of Schools, the teaching staff and the officers of the Board of Education be so notified.

This action by the Board of Education brought forth vigorous public criticism from several sources. Typical of the criticism are the following statements taken from a letter dated January 9, 1945, and addressed to the Board by the officers of the Woman's City Club of Chicago:

While we agree that furtherance of the war effort is the prime responsibility of every citizen and every official at this time, we believe that your action in denying co-operation in this investigation will result in increased confusion and conflict in the school system, with a consequent lowering of public morale. The best way to further Chicago's war effort would be for you to aid in every possible way the impartial search for facts which the National Education Association is making, then, when the facts are determined, make any corrections or changes which are indicated. Only in such a way can confidence in the educational leadership of Chicago be restored and public morale raised.

Contrary to your statement, the N.E.A. investigation was not instigated by outside groups "whose declared purpose has been to discredit the organization of the Chicago Public School system," but was initiated by the teachers themselves. The same teacher organizations which you state are representing the teachers satisfactorily in other matters are responsible for this investigation. The National Education Association itself is a nation-wide association of teachers of highest professional standards and ethics. Civic groups, such as ours, also requested the investigation as a possible means of putting an end to the suspicion and conflict which have characterized the attitude of the public toward the Chicago public schools for the past decade.

We therefore urge you to rescind this motion and co-operate fully in the National Education Association investigation.

Notwithstanding the attitude of the Superintendent and the majority of the Board of Education, the Investigating Committee came to the conclusion that the investigation was needed and fully warranted because the present operation of the schools is far from satisfactory. Under good conditions the Chicago schools could make a much greater contribution to the war effort and the cause of democracy.

During the investigation it became desirable for members of the Committee to visit several schools in order to evaluate criticism of the schools and to pass upon the Board's claim that the schools of Chicago are "models" for the rest of the country and are making an adequate contribution to the welfare of Chicago's children in this critical period. Representatives of the Committee were denied admission to three schools and it was learned that in at least one school district a written

order had been issued to principals to exclude all but municipal employees from visiting school property without special permission from the district office. Inquiry revealed that telephoned instructions of similar purport had been issued in other sections of the city. It was apparent to the Committee that these orders were designed to keep representatives of the National Education Association from observing actual school conditions.

A final effort to obtain the cooperation of Superintendent Johnson was made on March 23, 1945, when the Committee asked him to meet with them at his convenience on April 5 or 6 because, quoting from the letter, "in making our investigation a number of questions have arisen involving occurrences during your administration and we believe it will be mutually helpful if we could obtain your viewpoint and explanations."

To this request the Superintendent replied on March 28 with the following comment: "In view of the resolutions passed by the Board of Education some months ago and further, in view of the fact that all of my acts have been concurred in by the Board of Education and are a matter of public record, I frankly see no purpose in a conference between your Committee and myself."

In the many previous investigations made by the National Education Association, schools have been opened to its representatives and some measure of cooperation on the part of the school administration has been forthcoming. This action of closing the schools to investigation by an impartial, professional body is unprecedented. This secretiveness and fear of investigation on the part of the Board and the Superintendent help to explain the general feeling among Chicago citizens that the administration has "something to hide."

The Chicago Teachers College

The Chicago Teachers College has had an excellent reputation and it has an interesting background and a record of achievement of which it may well be proud. Under the name of the Cook County Normal School, which was established in 1867, this institution attained a national reputation during the presidency of Francis W. Parker. In 1896 the institution was taken over by the Chicago Board of Education and became known as the Chicago Normal College. Recently the name was changed to the Chicago Teachers College.

This splendid institution, with its proud record of educational achievement and its independent faculty, began in 1933 to feel the first effects of the domination of the McCahey regime. Probably the public first was made aware of this control when the College's respected president, Butler Laughlin, was unjustifiably transferred to a high-school principalship in 1936. Mr. Laughlin's refusal to falsify the institution's records of the chemistry grades of one of its students at

the request of Mr. McCahey[1] and Mr. Laughlin's stand against Superintendent Johnson's attempted violation of former Superintendent Bogan's promise to 80 cadet teachers in the high schools that they could qualify for high-school certificates upon their graduation from the College,[2] may have had much to do with Mr. Laughlin's summary transfer.

During the McCahey-Johnson regime numerous actions have been taken which were injurious to the integrity and independence of the Chicago Teachers College. Among these actions the following are mentioned as typical:

(1) A "spy system" is maintained in the Teachers College which keeps the downtown office informed on conversations, actions, and attitudes of faculty members.

(2) The course in philosophy of education was ordered eliminated from the College curriculum by Superintendent Johnson for reasons which cannot be justified.

(3) A number of members of the College faculty were selected on a basis of political favoritism rather than upon merit.

(4) Superintendent Johnson ordered that there should be no criticism of the Chicago public schools in any Teachers College classes.

(5) At least for the past year the grades given to students for work in student teaching have not been given or passed upon by members of the College faculty but have been determined by principals and other employees of the city schools who have no official connection with the College.

(6) Mr. McCahey has interfered in the Teachers College management even to the point of bringing influence upon the Board of Examiners for the purpose of securing passing grades for certain candidates in order that they gain admission to the College.

(7) Mr. McCahey's sister, a secretary at the College, is known to have called the downtown office frequently to secure immediate school appointments for favorite students who had finished the Teachers College course.

(8) The Committee has investigated the awarding of a teacher's certificate to the daughter of a city councilman, although she had failed in fifteen hours of class work and the graduate committee had asked her to withdraw from school because of her poor record and had requested in January 1942 that she be barred from taking further work in the Chicago Teachers College. The certificate was granted to her without the knowledge of the teachers under whom she had taken courses and as a result of political pressure from the downtown office of the Chicago public schools.

[1] See p. 24.
[2] *Ibid.*

(9) On August 25, 1943, twenty-one members of the faculty of the Chicago Teachers College were dismissed by the Board of Education upon the recommendation of the Superintendent without prior notice or an opportunity to obtain positions elsewhere. At the same time twenty-one additional members of the Chicago Teachers College were transferred from their chosen work in the College, for which they were prepared by experience and training, to various Chicago high schools and junior colleges without prior notice or an opportunity to seek teacher-college employment elsewhere. This summary action was a gross injustice to the teachers transferred and was destructive of the morale of those remaining in the College.

The reason given for these transfers was a decrease in the number of students. This was not a justifiable excuse for dismissing teachers without adequate notice. As a matter of fact, this decrease was largely planned and caused by the administration of the Chicago schools. In May 1943, the College had an enrolment of about 1200 students; in the fall of 1943 the enrolment was 847. This reduction in enrolment was caused (a) by the arbitrary decision of Superintendent Johnson and the Board of Education to reduce the enrolment, and (b) by the delay in conducting examinations preparatory to the fall opening of the College. This delay was largely chargeable to the plan of Mr. McCahey either to close the Teachers College or to induce the legislature of Illinois to contribute to its support.

The treatment of these 42 members of the Teachers College faculty is inexcusable and these dismissals and transfers have had an injurious effect upon the morale and integrity of the institution. After such wholesale action it has been difficult to induce competent people to join the staff of the Teachers College.

(10) In the spring of 1944, without the consent of the faculty, Superintendent Johnson cast aside a progressive course of study for the Teachers College which had been approved by various accrediting agencies and substituted therefor a course of study not adopted by the faculty and of a character not approved by many authorities in the field of teacher education. In order to protect the Chicago Teachers College from this final attack upon its autonomy and in order to maintain, if possible, a broad liberal education for the future teachers of Chicago, Dr. John DeBoer took a courageous stand against this action. As a result, he was transferred to a junior college, where there were no classes for him, without advance notice or an opportunity to be heard or to seek other employment. The Investigating Committee considers that the transfer of Dr. DeBoer was planned not only as a punishment for exercising his professional right to express his views but also as a notice to other members of the faculty that

they must submit without question to the desires of the Superintendent and Board of the Chicago schools.

(11) After the transfer of Dr. John DeBoer, Superintendent Johnson said to the Acting President of the Teachers College in the presence of the departmental chairman of the college and of the district superintendent of the city schools, "Swearingen, if someone does not want to go along with your philosophy, mark him inefficient and send him down here. Don't tolerate any disrupting influence. Suspend him at once."

(12) When questioned as to the effect of the proposed change in curriculum upon the accreditment of the college by the North Central Association of Colleges and Secondary Schools, Superintendent Johnson is reliably reported to have made the following remarks: "Don't worry about the North Central. I can control them. They'll do as I say."

(13) Mr. McCahey, President of the Board of Education, had an active part in the transfer of John DeBoer. In order to assure the consent of the Board of Education to this transfer, Mr. McCahey circulated among them statements attacking Dr. DeBoer's patriotism and loyalty to democracy.

The destructive effect on teacher morale of the Johnson-McCahey control of the Chicago Teachers College is to some extent indicated by the following brief quotations from members of the faculty:

"Faculty members are afraid to believe anyone now. They guard their talk to each other for fear of reprisal."

"The remaining faculty members who have any self-respect gnash their teeth at having to work under these conditions, despise themselves for being financially unable to resign in protest, and carry on their teaching without enthusiasm in a spirit of 'quiet desperation.'"

"No one initiates anything, because it is understood here as elsewhere throughout the school system that all initiative must come from downtown. The faculty is, therefore, just marking time."

"What hurts most is the realization that while our relatives are dying to overthrow dictatorships throughout the world, we have to work under an absolute dictatorship at home."

"I assure you by all things that are true and good that the Gestapo works overtime in the schools of Chicago. Johnson by his 'spy system' has crushed the very life blood out of the schools. Teachers are always being transferred for talking out loud."

"A teacher will turn around and look both ways before she opens her mouth."

The Chicago Teachers College is of the utmost importance to the Chicago school system because not only must all of the future elementary teachers attend this college but also, under present conditions,

practically all new high-school teachers come from the College due to the practice of appointing to the high schools only teachers who have had experience in the Chicago elementary schools. Therefore, since the basic training of practically the entire future teaching force of Chicago depends upon the Teachers College the integrity of the College, the quality and morale of its faculty, the cultural content of the courses of study, and its students' understanding of social and economic problems are of prime importance. The kind of preparation the children of Chicago are to have in order to face the problems and actualities of the new world also to a large extent will depend upon the maintenance of the Teachers College on the highest possible level.

It is the opinion of the Committee that during the Johnson-McCahey regime the autonomy of the Teachers College has been destroyed, the morale of the faculty weakened, the cultural value of the curriculum injured, and the reputation of the institution sullied.

The Committee believes that the best interests of the Chicago Teachers College cannot be served by absentee management on the part of the President of the Board and of a Superintendent of Schools who is not an expert in the college field and who has many other duties and responsibilities. The President of the College should be the medium for clearance of college problems with the Superintendent and the Board.

The Committee believes that a thorough investigation by the two accrediting agencies which pass upon this college will show serious violations of their standards.

The Committee recommends that, to avoid "inbreeding" in the Chicago schools, graduates of the Teachers College should not be given a monopoly of the teacher appointments in Chicago.

The Committee further recommends that responsible, independent administration of the Chicago Teachers College be restored and that the College be open to all properly qualified students.

Transfer of Teachers

In every school system it is found necessary to transfer teachers from one grade to another or from one building to another because of the shifts in teacher load, because of the necessity of adjusting teachers to the work best suited to them, occasionally because of personality clashes, and sometimes to give a teacher who is not doing satisfactory work another chance in a new environment. No administration should be criticized for such transfers provided they are made in an orderly and professional manner and for the best interests of the schools.

It is generally agreed that, except in emergency cases, transfers should be made during the summer vacation or at the end of a semester. Teachers should not be transferred without receiving ad-

vance notice, nor without being given knowledge of the reasons for the transfer nor without an opportunity to discuss the matter fully with the school administration.

Between September 27 and December 11, 1944, Superintendent Johnson, with the approval of the Board of Education, transferred over 600 teachers, which is at the rate of over 200 per month. This means that in this short period of two and one-half months approximately 24,000 Chicago students had to undergo the difficulty of adjustments to new teachers, the instructional loss due to the break in the continuity of instruction and disruption of an orderly development of courses. While some of these transfers may have been necessary, this rate of transfer is, in the opinion of the Committee, altogether too large to be justified.

Elsewhere in this report specific cases are discussed in which transfers were made without prior notice to the individual. In some of these cases transfers were used as a means of punishment of the teacher affected and had the effect of intimidating large numbers of teachers. In other cases transfers were made to make positions for relatives of Board members and politicians. In some cases, after the transfer and subsequent public criticism, charges were made against the transferred teacher without first submitting them to him for discussion or without giving him an opportunity to answer such charges.

The teachers of Chicago are serving under a tenure law which provides for an orderly method of dismissing an incompetent teacher. Under the provisions of this law it is the duty of the Superintendent to present charges against unfit teachers to the Board of Education whose duty it is to pass upon such charges after giving the teacher an opportunity for a hearing. Apparently, in a number of cases, teachers whom the administration wished to eliminate from the school system have been transferred without their consent in order to avoid hearings which might have revealed a lack of substance to the charges required to be made by the Superintendent under the tenure law.

The Committee has investigated a number of cases where principals who were a part of the so-called administrative machine attempted to force teachers by intimidation to request transfers. In most of these instances the teachers were appointed prior to the present administration and were not willing to submit blindly to dictation of such principals.

In the opinion of the Committee, the Superintendent of Schools, in a number of cases, has misused his authority to transfer teachers to the injury of the schools and the weakening of teacher morale. Aside from the personal injustices involved, the most serious effect of a number of these transfers has been to intimidate the teaching force and to create an unwholesome state of fear on the part of many teachers who are not fully submissive to the directions, desires, and dictation of the administrative organization or machine that exists inside the Chicago school system.

The Summary Transfer of John J. DeBoer

At the specific request of the National Council of Teachers of English, the Ethics Committee of the National Education Association and several other groups, the Investigating Committee has investigated the transfer and demotion of John J. DeBoer, director of student teaching at the Chicago Teachers College from February 1931 to May 1944. On May 11, 1944, Dr. DeBoer received notice from Superintendent Johnson of his transfer to Herzl Junior College. No reasons for the transfer were formally presented, but events leading up to it give ample evidence that the Superintendent applied this method of reprisal upon Dr. DeBoer because the latter dared to protest publicly against Dr. Johnson's expressed intention to order a complete revision of the Teachers College curriculum.

Briefly, the facts are these: In March 1944, Superintendent Johnson called in Acting President J. I. Swearingen of the Chicago Teachers College and three members of the faculty, including John DeBoer, to inform them that he wanted much of the liberal arts content eliminated from the College curriculum for elementary teachers and only those courses retained that would prepare students to teach the subjects included in the course of study for Chicago elementary schools. Superintendent Johnson justified his intention with the charge that mathematics, reading, and other basic subjects were not being properly taught by teachers trained in the Chicago Teachers College. This charge was based partially upon the apparently false accusation that Dr. DeBoer was not allowing his practice teachers to teach mathematics because they were coordinating their mathematics instruction with the social sciences.

Dr. DeBoer agreed that there should be close coordination between the College and the public-school administration but he protested (1) against imposition of a curriculum upon a faculty, and (2) against the elimination of general education material from the curriculum. His protest was ignored and arrangements were made for a series of meetings of the elementary-school district superintendents with the chairmen of the college departments to effect the curriculum changes desired by Superintendent Johnson. Other college faculty members and several district superintendents privately expressed dissatisfaction at the Superintendent's action but none dared to protest openly for fear of reprisals.

When Dr. DeBoer's objections continued to be ignored, he wrote the following letter to Superintendent Johnson on May 8, 1944 and released copies to the newspapers and to the accrediting agencies:

May 8, 1944.

DEAR DR. JOHNSON:

In your recent conferences with the acting president and faculty committee of the Chicago Teachers College, I have repeatedly but unsuccessfully protested against your imposition of a new and in my judgment antiquated curriculum upon that institution. Because I believe your action to be one of vital concern to the people of Chicago, I am now constrained to make public protest against your action. I respectfully submit the following grounds for my protest:

(1) Your action destroys the independence and educational freedom of the Teachers College faculty. Neither the acting president nor the faculty have been given any voice in the determination of the curriculum policy. The committee on revision has been placed in charge of the district superintendents of the Chicago schools under the leadership of the assistant superintendent in charge of elementary schools. The faculty committee has been ordered to prepare courses in line with policies arbitrarily laid down by the superintendent. The assistant superintendent has further requested the faculty to attempt to make the changes palatable to the student body.

No one objects to a policy of close co-ordination between the administrative office of the Chicago schools and the educational staff of the Teachers College. On the contrary, faculty members have repeatedly sought such coordination. But to take educational policy out of the hands of the College president and faculty, and require faculty members to teach courses they do not believe in, is in violation of every decent academic tradition and makes mediocrity of teaching inevitable.

(2) Your orders regarding the Teachers College curriculum deny the future teachers of Chicago the essentials of a liberal education. Under the policy you have laid down, the vast majority of the courses to be offered are to be in preparation for the vocational duties of elementary teaching in the city of Chicago. I hold, and I am convinced that most parents of Chicago children hold, that teachers in Chicago schools should be educated men and women first. The people have a right to the assurance that the teachers of their children have been introduced to the world of ideas, that they are aware of the major currents of thought in the world today, that they should be familiar with books, with literature and history and economics and international affairs, quite apart from the consideration of the contents of elementary school subjects. The criterion you have established, that all work should be judged in terms of its immediate pertinence to the job of teaching, converts the Chicago Teachers College from a college into a purely vocational school.

(3) Your orders with regard to the professional courses at the Chicago Teachers College will seriously interfere with the efficiency of the institution in providing skilled and well-informed teachers for Chicago's schools. You have established the policy that methods and contents courses shall be based upon the existing curriculum in Chicago elementary schools. In view of the fact that serious deficiencies in reading, writing, and historical knowledge among the adult population have become apparent in recent years, it becomes all the more important that new and improved teaching procedures continue to be devised. The Teachers College faculty should remain free to apply the best available scientific knowledge about teaching procedures in their courses, and to seek new light upon difficult educational problems. Not the superintendent's present policies in Chicago elementary schools, but the best current knowledge of the profession as a whole should be the source of the materials of instruction at the Chicago Teachers College. Only a free faculty can prepare teachers for democracy's schools. The Chicago public does not wish ideological domination by one man, even the superintendent of schools, over the education of its teachers.

The curriculum which you are emasculating was enthusiastically approved by the North Central Association of Schools and the American Association of Teachers Colleges three years ago. It has been hailed as a model for other teachers colleges in publications of the American Council on Education. Your action turns the clock back many years for education in Chicago.

Respectfully yours,

Signed: (John J. DeBoer)
Director of Student Teaching
Chicago Teachers College

P.S.—I am taking the liberty of making this letter public.

On May 9, Superintendent Johnson demanded Dr. DeBoer's resignation. Dr. DeBoer refused to resign and two days later by official board action (Mrs. Walter F. Heineman dissenting) he was transferred to Herzl Junior College. No formal charges were presented; no notice was given and no hearing was allowed.

Fundamentally, the issues at stake in this case appear to the Investigating Committee to be as follows:

1. Freedom of speech as embodied in the right of a member of the Chicago Teachers College faculty publicly to express an opinion on a school policy upon which he is well qualified to speak and which is at variance with that of the Superintendent of Schools.
2. The wisdom of permitting one man (the Superintendent of Schools) to dictate curriculum for the Teachers College.
3. The right of Chicago children to instruction by teachers who are educated men and women, not only skilled in the technics of teaching the basic subjects but also well informed on current social problems and with broad cultural backgrounds.
4. The right of the Superintendent to sever a college faculty member's connection with his institution without giving him an opportunity for a hearing or presenting him with a statement of reasons for the transfer.

Secret charges against Dr. DeBoer's patriotism and his loyalty to the principles of democracy emanated from Board President McCahey's office although the charges did not enter into the record. The Committee is convinced that these charges were used to bring about the Board action which demoted Dr. DeBoer. Careful investigation has shown these charges to be wholly false and the Committee believes that Dr. DeBoer's civil rights were violated by the unsubstantiated accusations. If the Board had sincerely desired to test the truth of the rumors, it should have filed charges against Dr. DeBoer under the tenure law thus allowing him his right to a hearing.

John J. DeBoer is nationally known as a leader in teacher education and an advocate of modern educational principles. Careful inquiry into his training, personality, and teaching ability has convinced the Committee that Dr. DeBoer is a valuable member of the education profession and every effort should have been made to retain his services as director of student teaching at the Teachers College. He had a stimulating, positive, and constructive influence on students in his classes and he carried his full share of responsibility for the morale and integrity of the College.

On several occasions Dr. DeBoer is reported to have criticized the Superintendent's policies and Dr. Johnson is known to have referred to him as "my severest critic." Despite his expressed opinions in opposition to views and actions of the Superintendent, the Investigating Committee has found no instance of Dr. DeBoer's failure or refusal to conform to the Superintendent's regulations or policies. In Dr.

DeBoer's own words, "If I had been obliged to conform to policies basically opposed to my beliefs, I should probably have withdrawn from the system. My crime was simply the public expression of an opinion which I had privately advanced in numerous private meetings with the Superintendent."

Superintendent Johnson, partly as a result of the public agitation over Dr. DeBoer's transfer, approved a compromise curriculum for the Teachers College late in May 1944 but the main controversy over the right of a teacher to offer constructive criticism without penalty has not yet been settled.

Regarding the case of John J. DeBoer, the Investigating Committee has come to the following conclusions:

1. Dr. DeBoer's academic freedom was seriously violated by the action of Superintendent Johnson as authorized by the Board of Education. It is interesting to note in this connection that Superintendent Johnson says in his 1941-43 report:[3] "Chicago teachers have enjoyed intellectual freedom in their influence upon the school curriculum."
2. Dr. DeBoer's transfer was unwarranted and the methods employed, whereby no notice was given, no formal charges brought, and no opportunity for a hearing given, were unethical, unjust, and contrary to principles of sound school administration.
3. The attempts to assassinate his character in secret, star-chamber proceedings by false accusations of disloyalty to American ideals were a direct violation of Dr. DeBoer's civil rights.

The Committee recommends the return of John J. DeBoer to the faculty of Chicago Teachers College.

The Committee further recommends that the attention of the accrediting agencies concerned with Chicago Teachers College be called to the violations of their standards in this case.

Raymond M. Cook—From College Faculty to Elementary School

One of the outstanding examples of unjust personnel practice investigated by the Committee is the case of Raymond M. Cook who experienced several unwarranted transfers and an unsuccessful lawsuit. In the system since 1923, Mr. Cook has taught on all educational levels from elementary school to college and has held administrative and supervisory positions. Two of his transfers merit particular attention: One from Chicago Normal College to Hyde Park High School on

[3] Board of Education, City of Chicago. *The Chicago Public Schools in Wartime.* Annual Report of the Superintendent of Schools, 1941-1942 and 1942-1943, p. 137.

October 1, 1937; the other from the Chicago Teachers College to Fuller Elementary School at the beginning of the 1943-44 school year.

The 1937 transfer came after Mr. Cook had been refused a principal's certificate to which he believed he was rightly entitled and immediately prior to his filing a writ of mandamus to compel the Board of Education and the Board of Examiners to grant him such a certificate.

Mr. Cook took the written portion of the principal's examination on September 9, 1936, and the oral portion on April 6, 1937. He received the following grades: Written examination—91.25 percent, which was one of the highest grades earned by any of the more than 700 applicants; oral examination—average 81.25 percent; personal rating, supposedly constituting one-half of the score in the oral examination (examiner's estimate of candidate's personality, appearance, manner, etc.) —70 percent. His over-all average was 86.25 percent—a mark well above the established grade of 80 percent required for a certificate and a final total grade exceeded by only four of the 155 candidates who successfully passed the examination. Mr. Cook was failed, however, because of the hastily-added requirement, set a week before the examination by the Board of Examiners at Superintendent Johnson's insistence, that "no grade lower than 75 percent on the personal interview or personal oral test" would be accepted.

The oral examination was conducted by a board of eleven persons of which Superintendent Johnson was the presiding officer. Mr. Cook was asked only the following three questions: (1) What would you include in a third-grade arithmetic course? (2) How would you teach musical appreciation in the first grade? and (3) What are the outcomes of supervised study? The examination was concluded in four minutes. On the basis of this astonishingly brief examination, Mr. Cook was judged ineligible for certification despite his apparently satisfactory answers to the questions and the fact that he had received a rating of 90 percent on a prior oral examination for a certificate of supervision and administration on a college level.

The Investigating Committee is obliged to conclude that Mr. Cook's failure to pass the principals' examination was due solely to Superintendent Johnson's intention that he should not be certified. This conclusion is borne out by an affidavit from J. J. Zmrhal, district superintendent and member of the board of oral examiners which interviewed Mr. Cook. The affidavit (subscribed and sworn to on March 14, 1938) states that Mr. Zmrhal definitely remembers in the case of Raymond M. Cook, before Mr. Cook entered the room and before any question was put to him by any member of the committee or by the Superintendent, the Superintendent said to the committee: "This man is out; he is disloyal." The affidavit further states that after Mr. Cook had been questioned by members of the committee, the Superintendent then said to the committee in substance, the following: "This man has high marks on the written and evaluation. I will have to mark him low enough so as to be sure to fail him."

The Superior Court of Cook County upheld Mr. Cook's plea for a principal's certificate but the decision was reversed by the Appellate Court of Illinois not on the merits of the case but on the grounds of a technicality.

Mr. Cook's transfer to Hyde Park High School in 1937 was ordered without consultation with President Verne Graham of the Normal College or the departmental chairman. Superintendent Johnson did not file written reasons for the transfer, but on various occasions subsequent to the transfer he made the following explanations for his action:

1. Mr. Cook was using his college teaching position to spread propaganda against the administration. (No responsible person has confirmed this accusation and the Superintendent has offered no proof of its truth. Mr. Cook was well within his rights in participating in Chicago Teachers Union activities in protest against certain school administration policies.)
2. Mr. Cook was inefficient as an instructor. (Efficiency ratings of "excellent" are on file for each of Mr. Cook's semesters of work at the College and at no time did the Superintendent visit Mr. Cook on duty.)
3. The work Mr. Cook was sent to the College to do had been abandoned and reassignment was necessary (Mr. Cook had had a full teaching load and a full-time substitute was given his college classes upon his transfer. It is true that an apprentice training scheme which had taken much of Mr. Cook's time was liquidated in June 1936, but a dismissal on October 1, 1937, could hardly be attributed to this circumstance).
4. Mr. Cook was not entitled to a college position because he was assigned by former Superintendent Bogan "out of the regular order" and former Crane College[4] teachers should have had priority. (After Mr. Cook's dismissal, several dozen instructors from entirely outside the school system were added to the Normal College and City College staffs. Also, the fact Mr. Cook received the highest grades given in the examinations for both the college certificates held by him surely should have entitled him to hold a college position.)

When the Chicago Normal College became the Chicago Teachers College (without change of faculty or administration) and sought accrediting as a four-year, degree-granting institution from the American Association of Teachers Colleges, the arbitrary dismissals of Mr. Cook and a colleague, Mr. Lyle Wolf, were cited by the Chicago Teachers Union as evidence of political interference and absence of academic freedom in the College faculty. A portion of a letter written by the president and the executive secretary of the Teachers Union on January 10, 1939, and addressed to Dr. Charles Hunt, secretary of the American Association of Teachers Colleges, follows:

[4] Crane College was abandoned in 1933 as an economy measure.

We charge, then, that Mr. Cook and Mr. Wolf were dismissed without hearing or trial, and without even knowing the grounds for their dismissal. We charge that for the Superintendent to take this arbitrary action without consulting the President of the Normal College is an intolerable interference. We charge that the reasons advanced by the Superintendent have been specious and evasive half-truths or non-truths. We charge that the Superintendent has interfered with the administration of the Normal College on the basis of unconfirmed rumor and gossip. We charge that his failure to reinstate Mr. Cook is due to a bitter personal desire for retaliation which has no basis in the merits of the case nor in the welfare of the College.

Since the President of the College was in favor of the reinstatement of Mr. Cook the entire matter rested with Superintendent Johnson. The accrediting of the College was jeopardized because the standards of the American Association of Teachers Colleges require that there be no political interference in College management. The Citizens Schools Committee, the *Chicago Daily News*, and the Teachers Union repeatedly brought this situation to public attention. Finally, in February 1939, the Board on the recommendation of Superintendent Johnson reinstated Mr. Cook on the College faculty.

In August 1943, 42 teachers were dismissed from the Teachers College on the grounds that the enrolment had dropped from 2,000 to 800 students. Teachers without tenure were let out entirely, others were assigned to junior colleges and high schools with one exception—Raymond Cook was sent to the third grade of Fuller Elementary School. He was notified officially of his reassignment only four days before school began altho he had received earlier rumors of his demotion. His salary was cut from $4,000 to $2,500 and has since been raised to the elementary-school maximum of $2,625.

Subsequent to Mr. Cook's transfer, the school authorities justified this elementary-school assignment with the assertion that he could not teach in high schools since he did not hold a high-school certificate. Mr. Cook did not hold such a certificate, yet he previously had served four years successively as an assigned teacher, an acting principal, and an elected assistant principal in the senior high schools and also he had supervised high-school practice teachers. Furthermore, his elementary-school certificate was 20 years old and he had never taught on it.

The school authorities claimed further that Mr. Cook's college supervision and administration certificate was not good for *doing* supervision work but only for *teaching* supervision courses and since the Teachers College and the junior colleges were not offering courses in supervision his services were no longer needed at the College. However, holders of college personnel certificates which are precisely parallel to college supervision certificates are permitted to do personnel work as well as to teach courses in personnel work. It is worthy of notice that this interpretation of the supervision certificate affected only one person, Raymond Cook.

It was claimed that in the reduction of the Teachers College faculty in 1943 the principle of seniority was rigidly adhered to and yet:

1. Mr. Cook, who was the first Teachers College faculty member to give full time to supervision of student teachers (January 1936), was replaced by an instructor with less experience in this field.
2. Mr. Cook, the first director of a course for training sight-saving teachers (1936), was not assigned to this work when sight-saving classes were reinstituted subsequent to his demotion.
3. The Freshman Community Course which won the Teachers College much favorable publicity was pioneered by Mr. Cook and three colleagues. When a new staff member for the course was needed in October 1943, Mr. Cook was not transferred back from the elementary school.

Mr. Cook taught at Fuller School throughout the 1943-44 school year. Since his assignment was the morning shift he worked afternoons and evenings at the Stewart-Warner plant to make up his salary lost by the transfer. When he returned to school the beginning of the 1944-45 year he expected a transfer back to the College but since this was not forthcoming he requested and was granted leave for war work. At present he is working at the Chrysler plant.

Regarding the case of Raymond M. Cook the Investigating Committee has come to the following conclusions:

1. Mr. Cook is a man of unusual brilliance, teaching ability, and professional experience and his persistent persecution by Superintendent Johnson and the majority of the Board of Education has been unwarranted and unjust.
2. The best interests of the Chicago schools have been disregarded in Mr. Cook's demotion from a college to an elementary-school position.
3. In his action regarding Mr. Cook, Superintendent Johnson has misused his authority to transfer teachers.
4. This case is an outstanding example of what happens to a Chicago teacher who is not subservient to the McCahey-Johnson machine. Prominent "dissenters" like Mr. Cook are punished as examples to subordinates.

The Committee recommends that Mr. Cook be restored to full standing in the Chicago Teachers College and that the Board of Education inquire into Superintendent Johnson's use of his transfer power in this and in similar cases.

The Committee further recommends that the attention of the two accrediting agencies concerned with the Teachers College be called to this violation of their standards.

The Two Transfers of Butler Laughlin

The two transfers of Butler Laughlin, now principal of Harper High School, have been carefully investigated by the Committee because of their apparent political implications. On July 22, 1936, by Board action, upon the recommendation of Superintendent Johnson who had been in office less than three months, Mr. Laughlin was demoted from the presidency of Chicago Teachers College to the principalship of Lindblom High School effective September 14, 1936, with a salary cut from $7,500 to $5,700. Again, on December 12, 1942, he was transferred from Lindblom High School (enrolment—7,000) to Harper High School (enrolment—1,400) as principal. Both transfers were made without prior notice, statement of reasons, or opportunity for a hearing. In the first instance, Mr. Laughlin had no official notification and was told of the Board action by a friend; in the second case, his successor at Lindblom High School gave him the news by telephone at 1 a.m. the day the transfer became effective and official advisement of the Board's action came by special-delivery letter the same morning.

Evidence presented to the Investigating Committee indicates that Mr. Laughlin was transferred from the Teachers College largely because he could not be "controlled" by James B. McCahey, president of the board. Mr. Laughlin's integrity was always above question. For instance, he refused to falsify, at Mr. McCahey's personal request, the grades of a college senior who had failed in chemistry. He would not allow the Teachers College to be used politically and he backed up members of his faculty who were under attack from the Superintendent's office. Also, when Superintendent Johnson, shortly after he took office in 1936, attempted to violate former Superintendent Bogan's promise to 80 practice teachers in the high schools who had been told that they could take the examinations for high-school certificates upon their graduation, Mr. Laughlin firmly insisted that Dr. Johnson honor his predecessor's commitments.

In June 1936, two months before the transfer, Superintendent Johnson had told Mr. Laughlin that he considered him one of Chicago's educational leaders. Mr. Laughlin was made director of the summer school at the College and Dr. Johnson said he "had plans" for Mr. Laughlin's future. The demotion, therefore, came as a great surprise to Mr. Laughlin despite his realization that Dr. Johnson had not always appreciated his independence of action in the administration of the College.

Nepotism entered into Mr. Laughlin's December 1942 transfer. Harry Yates, appointed to succeed Mr. Laughlin at Lindblom High School, was one of the principals certified by the questionable examinations of 1937 and his wife is related to James B. McCahey. From testimony presented to the Committee, it was obvious that Superintendent Johnson sought to promote Harry Yates. Also, he was anxious

to "discipline" Mr. Laughlin. Mr. Laughlin's activity in behalf of Kermit Eby, former executive secretary of the Chicago Teachers Union, had aligned him with the forces opposing certain policies and acts of the school administration.

The members of the Board of Education, with the exception of President James B. McCahey, did not receive prior notice of the Superintendent's recommended shift in the Lindblom and Harper principalships. Only subsequent to Mr. Laughlin's transfer were the charges brought against him and it is worthy of note that these charges were made public from Mayor Kelly's office rather than by the Superintendent or the Board. It is obvious to the Committee that the charges were drawn up in an attempt to justify Mr. Laughlin's transfer after it was ordered rather than as evidence for Board consideration in weighing the wisdom of the suggested transfer.

After careful inquiry including investigation of both the secret letter which Superintendent Johnson claims to have written to Mr. McCahey prior to the transfer but which was not made public until afterward, and Mr. Laughlin's answers to the charges set forth in this letter, the Committee has concluded that:

1. Superintendent Johnson was misinformed regarding certain conditions at Lindblom High School which he criticized.
2. Mr. Laughlin was ably administering the vocational and technical aspects of the Lindblom program and there was no professional justification for his sudden replacement by Mr. Yates, a former shop teacher.
3. Superintendent Johnson's comparison of Mr. Laughlin's and Mr. Yates' professional effectiveness on the basis of the quantity of scrap metal their respective schools turned in during a collection drive is a ridiculous basis for evaluating men who have responsibility for the welfare of thousands of high-school students. Such a pseudo-patriotic justification for the Superintendent's recommendation that Mr. Laughlin be replaced by a principal more favored by Mr. McCahey is a travesty on school administration.

The first public reaction to the change in principals came from the students at Lindblom who went on a strike, parading outside their school carrying placards with such wording as "Why Must Politicians Interfere With Our Education?" Guards from the school's ROTC unit were stationed at the entrances to bar the striking students from the building.

Some 29 civic and educational groups denounced the transfer as "further evidence of a school system deeply entrenched in politics." Delegates to a mass meeting of these organizations on December 17, 1942, urged that the school administration be made an issue in the 1943 mayoralty campaign and that Mayor Kelly be asked to appoint a committee to investigate "this and similar abuses in the school system." At this meeting Mrs. Walter F. Heineman, dissenting member

of the Board of Education, issued a statement regarding the transfer of Mr. Laughlin which concluded with the following:

> The removal of Butler Laughlin as principal of the Lindblom High School is the worst thing that has happened in the four and a half years I have been on the Board of Education, though it may not be recognized as such by the general public.
>
> The time has come for plain speaking. This transfer is an attack on the civil rights of teachers. That is why it is worse than the Spalding School case in which a highly qualified principal was removed to make room for a member of the school administration faction. That was personal favoritism.
>
> Mr. Laughlin's offenses are that he is a vice-president of the Chicago Teachers Union which is affiliated with the American Federation of Labor, and that he has always said what he thought.
>
> The manner and motive of the Lindblom case reveal it for what it is, an evidence of dictatorship in which the person who feels the lash is chosen for the sake of intimidating his friends.
>
> In my files are pounds of letters of protest received over the years. They have slight effect. If there is not a political remedy for such an abuse of democratic government, then democracy is a failure.
>
> When the Otis Law was passed, the term of office of the Mayor was two years and it was impossible for him to dominate the Board of Education in one term. As it is now, in a four year term, he appoints eight or nine out of eleven board members. That calls for legislation.
>
> Besides this remedy of legislation, I see only one other, a platform for the schools demanding two things:
>
> Every board member a believer in public schools.
>
> A merit system for teachers that puts them out of the reach of politicians.
>
> This platform should be carried into action.

Mr. Laughlin is still the principal of Harper High School and nothing has been done by the school administration to correct the injustice done him.

Regarding the case of Butler Laughlin, the Investigating Committee concludes that:

1. Mr. Laughlin is a man of great ability, high integrity, and professional leadership and his services should be more fully utilized by the Chicago schools.
2. His two transfers were unjustified and the methods employed—no statement of reasons, no prior notice, and no opportunity for a hearing—were wholly unethical and unwarranted.
3. Nepotism on the part of Mr. McCahey entered into the second transfer to Harper High School and personal politics was largely responsible for both actions against Mr. Laughlin.
4. The treatment of Mr. Laughlin is another example of misuse by the Board of Education and Superintendent Johnson of the authority of transfer as a means of serving notice on teachers and principals that they must be "loyal" to the McCahey-Johnson machine.

The Transfer and Demotion of Thomas J. Crofts

One of the most recent of the prominent transfer cases investigated by the Committee is that of Thomas J. Crofts, principal of Manley School at the time it was given over to the Navy on January 22, 1944. Mr. Crofts had been an elementary-school principal 1924-33 and a high-school principal 1933-44. As a school administrator his record had been outstanding and he was widely known for the sound educational program he was carrying on at Manley School. Morale was high in his faculty and he had the respect of parents and students alike.

Recognizing the need for continuation of a unified school program in the particular Chicago area which the Manley School served, Mr. Crofts protested Mr. McCahey's announcement on January 7 that upon the recommendation of Superintendent Johnson the Board of Education, at the request of the Navy, had turned the Manley school building over to the Navy for use as a Navy Pre-Radio Materiel School and that the 1,952 high-school students and 174 elementary-school students were to vacate the building on January 21. The announcement closed with the following order: "At the opening day of the next semester, Monday, January 31, the Manley high-school students will report to Marshall, Harrison, or Farragut high-schools, and the elementary pupils will report to the Ericsson, Shepard, King, Crerar or Lawson schools, as directed. The Manley teachers will be transferred to other schools later this month."

According to Mr. McCahey, Navy men had inspected school buildings in several parts of the city but had decided upon Manley because it had facilities most adaptable to Navy use—classrooms, gymnasiums, a cafeteria-lunchroom seating 800 to 1,000, a natatorium, showers and lockers, laboratories, shops, and numerous rooms available for barracks. The Investigating Committee has information indicating that the Navy had a choice of 10 high schools of similar design, but the fact that Manley School was located in an area where school pride and a certain civic-mindedness among school patrons had produced some criticism of the downtown school administration may have influenced the Board's decision to make Manley School available for Navy use.

Principal Croft's letter of protest to Mr. McCahey, dated January 10, 1944, follows:

> When the announcement came on Friday that the Navy had decided to take Manley High School building, it brought a feeling of deep regret that the work of this high school should stop. However, it seemed there was nothing to do but acquiesce from the standpoint of loyal Americans.
>
> Careful thought now convinces us that this disruption of educational opportunities in this congested community would be a serious mistake and a real loss to our city. Through ten and one-half years, the important work at Manley has been the building of good character, the development of friendly toleration between races and religions, and the growth of civic pride in the community. From the

previous atmosphere of subversive influences and youth delinquency, the student body has changed to active and understanding loyalty to American ideals. It would seem most unfortunate to take away from such a community one of its very important morale-building institutions. Our Service Correspondence Club writes to each of our six hundred Manley boys in uniform. Every day the mail brings letters from these young men and some on furlough come here to visit us. It would seem most unfortunate to take away this abiding contact and influence.

Parents in this congested neighborhood have had much trouble to steady and hold their young people. They have counted on the school to help tremendously on this. It would seem altogether in the public interest to maintain Manley High School as an organization. Chicago has many buildings which the Navy could take and use with little or none of the above mentioned injuries to civic morale. Should we not urge that they use some other space?

You will note, we trust, that this matter is presented entirely from the standpoint of public welfare. The faculty members are earnest Americans and ready for any personal sacrifices which are necessary to really help in winning this war.

Substantiating Mr. Croft's letter, over 1,000 persons, including students, parents, civic leaders, and faculty members, met on January 13, 1944, to register protest against the breaking up of the Manley high-school student body. When informed of a petition bearing 75,000 names of residents in the Manley high-school area requesting that the student body be transferred to Herzl Junior College, Mr. McCahey said that Herzl was not available. (However, Herzl Junior College could have been used because it was later closed and turned over to the Navy on April 1, 1944.)

Superintendent Johnson promised Mr. Crofts another high-school principalship at the beginning of the new semester on January 31, 1944. This promise has never been fulfilled and Mr. Crofts is now principal of Key Elementary School at a salary much lower than he was earning at Manley. Board President McCahey publicly and unjustly criticized Mr. Crofts for being "unpatriotic" in his requests to preserve the Manley school unit and advanced this as a reason for not assigning him to a high-school position.

At the same Board meeting when Manley School was turned over to the Navy (January 7) and Mr. Crofts was literally "put out of a job," Mr. Leo Klinge, an elementary-school principal, was appointed principal of Crane High School. Also, contrary to Superintendent Johnson's remark to Mr. Crofts that he "would probably get the principalship of Steinmetz High School when the incumbent principal retired in June, 1944," Mr. Matthew L. Fitzgerald was given the position. On November 22, 1944, when the Board of Education was called upon to fill the principalship of Marshall High School following Thaddeus J. Luberas' promotion to district superintendent of elementary schools, Mr. Crofts was again passed over in favor of David S. Cole, then principal of Talcott Elementary School. This action by the Board was taken over the protest vote of Mrs. Walter F. Heineman who said she had no criticism of Mr. Cole but she felt Mr. Crofts should have had the position.

At present, Mr. Crofts is the only former high-school principal in an elementary-school position.

The Investigating Committee is convinced that Thomas J. Crofts has been treated with great injustice since the closing of the Manley School. He is an outstanding member of his profession, a highly honorable and successful principal, and he merits a position of responsibility comparable to his unusual administrative abilities.

Regarding the case of Thomas J. Crofts, the Committee concludes that:

1. Mr. Crofts' failure to receive a promised high-school principalship after Manley School was taken over by the Navy is a breach of faith and his transfer to a position in an elementary-school with the resultant reduction in salary is a gross injustice to a man of his professional reputation and ability.
2. Mr. McCahey and Superintendent Johnson, wanting to go to any lengths to satisfy the requirements of the Navy and to appear "patriotic," should be strongly condemned for placing a false interpretation upon Mr. Crofts' protest over the closing of Manley School and for using his appeal for the preservation of an essential school unit as a charge against his loyalty to the war effort.
3. The breaking up of Manley School worked a distinct hardship on the children in the community served by the school.
4. This action against Mr. Crofts is another example of the unfortunate fact that in Chicago a principal or teacher who dares express publicly any opinion on school policy which is at variance with that held by the Board of Education and Superintendent Johnson is liable to punishment.

The Committee recommends that Mr. Crofts be given the first available high-school principalship and that all financial loss to him since his transfer be restored.

The Committee further recommends that the Manley School be reorganized at the earliest possible time and that Mr. Crofts be offered the principalship.

Mrs. Olive P. Bruner's Transfer from Spalding School

The Investigating Committee undertook a careful study of the case of Mrs. Olive P. Bruner because her transfer appeared to be an outstanding example of the removal of a satisfactory school employee in order to make a place for a favorite of the school administration. Without any warning and with no indication that her work was anything but highly satisfactory, Mrs. Bruner, then principal of Spalding School for Crippled Children, received a telegram at 7 p.m. on January 20, 1942, directing her to report to the Jahn School for Crippled Children (elementary grades only) the following morning. This action was

taken that afternoon by the Board of Education. Miss Celestine Igoe, sister of Federal Judge Michael L. Igoe, former Democratic party leader, was appointed director of the school and its new high-school division at a salary of $600 per month, $120 more than the salary received by Mrs. Bruner.

It is alleged that prior to the transfer a statement of charges against Mrs. Bruner had been prepared by Major Frank L. Beals, assistant superintendent in charge of special schools, at the request of the Superintendent. However, the first knowledge Mrs. Bruner had of these statements against her came one month after the transfer was ordered, when, in response to public pressure, Major Beals' report on Mrs. Bruner was published in the *Chicago Daily News*.

The Investigating Committee has studied carefully Major Beal's report of the charges against Mrs. Bruner and it has concluded that:

1. Many of the administrative policies and procedures for which Mrs. Bruner was criticized deserve praise rather than censure. Highly individualized and extremely flexible school programs are essential in the education of crippled children. Small classes, provision for varied interests, activities, and educational entertainment for such children who are denied participation in much that constitutes normal child life, and absence of undue regimentation are all recognized procedures in reputable schools for crippled children. These procedures had for years constituted much of the basis for the fine reputation enjoyed by Spalding School throughout the nation.
2. The alleged infractions of Board rules attributed to Mrs. Bruner dealt with relatively unimportant matters and did not warrant her transfer without warning or opportunity to defend her actions.
3. Ample evidence has been presented to the Committee to indicate that the charges contained numerous errors of fact and interpretation—errors which could easily have been corrected had Mrs. Bruner been consulted and allowed to explain certain happenings for which she was criticized.

A storm of public protest arose when Mrs. Bruner's transfer was announced. Among the more than 60 civic groups which came to Mrs. Bruner's defense and objected to the manner of the Board's appointment of Miss Igoe were the following: Chicago Federation of Labor; Chicago Woman's Club; Cook County League of Women Voters; National Council of Jewish Women; Chicago Women's Aid; Citizens Schools Committee; Chicago Church Federation; Chicago City Club; Chicago Teachers Union; Chicago Club for Crippled Children; Chicago Orthopedic Society; American Association of University Women; Joint Committee on Public School Affairs; Illinois Congress of Parents and Teachers. On March 11, 1942, the other members of the Board defeated a proposal by Mrs. Walter F. Heineman that Mrs. Bruner be reinstated.

It is claimed that Mrs. Bruner was transferred in order to make a place for Miss Celestine Igoe who had strong political connections and who had had considerable disciplinary difficulty in the school where she had been principal. Although the Committee is not in a position to pass upon the real reasons for Miss Igoe's promotion or to judge the relative qualifications of Mrs. Bruner and Miss Igoe, comparison of the educational backgrounds and experience of the two women reveals that Mrs. Bruner was recognized as an authority in the field of education of crippled children while Miss Igoe was practically unknown. A leader in the state, national, and international professional associations for crippled or exceptional children, Mrs. Bruner was respected by doctors, parents, and teachers concerned with the welfare of these children. For 20 years she had taught crippled children and her M. A. degree was taken in this specialized work. On the other hand, Miss Igoe's training was in physical education and gymnasium and she was not known to have had any particular preparation to fit her for the highly specialized position of director of Spalding School. Furthermore, her four years' experience as a principal were fraught with difficulties growing out of personality conflicts with parents and with students.

Testimony presented to the Committee appears to indicate that Miss Igoe is not well suited to her position at Spalding. Teacher and student morale is reported to be much lower than when Mrs. Bruner was principal. Numerous incidents brought to the Committee's attention lead the Committee to believe that certain temperamental traits of Miss Igoe seem to handicap rather than to enhance the harmonious operation of the school's affairs. And yet, the Committee is informed that Miss Igoe is in line for further advancement in the administration of programs for crippled children while Mrs. Bruner remains at Jahn School.

Board members had no official notice of the contemplated changes in Spalding School until the day of the Board meeting, January 20, 1942. The Board rules provide that reports to be voted on at a meeting be sent to Board members 48 hours before the meeting unless an emergency exists. The transfer of Mrs. Bruner and the appointment of Miss Igoe could scarcely be termed emergency situations.

Regarding the case of Mrs. Olive P. Bruner, the Investigating Committee has come to the following conclusions:

1. Mrs. Bruner was an outstanding administrator at the Spalding School and her transfer cannot be justified.
2. Superintendent Johnson's failure to confront Mrs. Bruner with a statement of charges against her prior to her transfer, the notice to her by telegram to make the change literally "over night," and the lack of provision for a hearing violated basic principles of democratic school administration and common courtesy.
3. For reasons not made entirely clear, the President of the Board and the Superintendent of Schools were more interested in seeing

that Miss Igoe be given the professionally-desirable and well-compensated position of director of Spalding School than in adhering strictly to the merit system of school appointments as required by the Otis law.

The Committee recommends that the Board of Education restore Mrs. Bruner to her former position as principal of Spalding School.

William T. McCoy—The First Conspicuous Transfer Case

The Investigating Committee has inquired into the transfer of William T. McCoy as this was the first demotion of a principal to arouse citywide, public criticism in Chicago and was the beginning of a series of transfers which has undermined teacher morale and public confidence in the integrity of the present school administration in Chicago. On March 10, 1937 William T. McCoy was transferred from the principalship of Bowen High School where he had served since 1931 to the principalship of Beidler Elementary School at a $700 reduction in salary. Using a state report of adverse physical conditions at Bowen High School as an excuse, Superintendent Johnson notified Mr. McCoy, his assistant principal, W. H. Collins, and Katherine Wolfe, his clerk, after the close of the school day that they should report to different posts the next morning. No reasons were given at the time for the transfer; no time was allowed for improvement of school conditions and no opportunity for hearings was offered.

On January 15, 1937, representatives of the State Department of Public Instruction and the University of Illinois visited Bowen High School to determine whether the school "was meeting the criteria and standards set up for recognition by the Superintendent of Public Instruction and accrediting by the University of Illinois." Following this visit, the state representatives released a report which did not speak well for the conditions at the school. The administration was rated as "slightly above average" and the morale of pupils and teachers was reported as "above average," but the representatives' general estimate of the school plant, janitorial service, and equipment was that they were decidely "below average." Blame for this inferior rating of Bowen High School was placed upon Principal McCoy. The Committee has evidence, however, to the effect that Mr. McCoy's requisitions for repairs and supplies for his school had been disregarded repeatedly by the downtown office. Any improvements in the physical plant of a school cannot be made by the principal but must be authorized by the Board of Education, and yet Superintendent Johnson ignored this fact in recommending Mr. McCoy's transfer on the basis of this report. The North Central Association suspended

Bowen High School from its accredited list as a result of the state report, thus giving Superintendent Johnson an additional excuse to remove Mr. McCoy as principal.

From evidence presented to the Committee it appears that Superintendent Johnson purposely shifted responsibility for physical conditions at Bowen High School from himself and the Board of Education to Mr. McCoy. Underlying this action were the following circumstances which, the Committee is convinced, contributed to Superintendent Johnson's desire to "punish" Mr. McCoy:

1. Mr. McCoy had opposed the alderman from the 10th Ward in which Bowen High School is located in his plans for several small high-school buildings to supplant Bowen. Mr. McCoy favored a new school but he believed substitution of several small plants for one large plant meant a corresponding "reduction of education opportunity" for the children in the area.
2. The head teacher at the branch school (attached to Bowen High School and under Principal McCoy's administration) was, according to Mr. McCoy, "a thoroughly hostile subordinate" who spent her time "in securing herself and in building up a powerful influence" against Mr. McCoy. This teacher had been a student in some of Superintendent Johnson's classes in Loyola University and was an intimate friend of the sister of James B. McCahey.

Mr. McCoy brought suit under the tenure law against the President and other members of the Board of Education for reinstatement in his former position at Bowen High School but the suit was lost. The Appellate Court held that there is no distinct position of high-school principal in the Chicago public-school system but only a position of principal, and that principals may be transferred from high schools to elementary schools at lower salaries by the school authorities at pleasure. The Appellate Court also held that Mr. McCoy was "barred from relief" in his suit by laches and acceptance of the lower salary of the position to which he was reduced although he made demand for reinstatement and brought suit for that purpose within three months.

Various civic and educational organizations came to Mr. McCoy's defense and publicly demanded that the Board of Education at least grant him a hearing. The following resolution, based upon its policy of strict adherence to the merit system, was passed by the Chicago Principals' Club:

RESOLUTION

Whereas, *The Declaration of Principles* adopted by the Chicago Principals' Club on May 15, 1937, affirms the belief of its members in the merit system; and

Whereas, The fundamental principles of the merit system are the right of the accused to be informed of the definite charges against him; the right to a reasonable period in which to demonstrate improvement; and the right to a hearing on such charges; and

Whereas, Mr. William T. McCoy, principal of Bowen High School, and Mr. William H. Collins, Jr., assistant principal, assert that they were demoted without being informed of the reasons for such demotion, or being given time for improvement, or being given opportunity for a hearing; and

Whereas, The Superintendent of Schools has not seen fit to grant an interview to representatives of the Chicago Principals' Club for the purpose of discussing with them the reasons why in this case the fundamental principles of the merit system were disregarded; therefore, be it

Resolved, That the Chicago Principals' Club hereby respectfully urges the Superintendent to give Mr. McCoy and Mr. Collins a statement of charges against them, to give them the opportunity for a hearing before the Board of Superintendents, and, after such hearing, to rejudge the cases upon the evidence presented; and be it further

Resolved, That copies of this resolution, with the *Declaration of Principles* attached, be sent to the Superintendent of Schools and to the President of the Board of Education.

In spite of the citizens' protests and the resolution passed by the Principals' Club, the Board failed to reopen the case, thereby revealing its disregard for public opinion and its unwillingness to deal fairly with its employees.

Mr. McCoy remained at Beidler Elementary School until he retired on November 7, 1939 at the age of 65 years.

The Investigating Committee concludes that the case of William T. McCoy was one of a series of unwarranted transfers of competent and highly professional school employees under the McCahey-Johnson regime. These transfers have been planned to serve the personal and political purposes of the school administration and have seriously hampered the efficient operation of the Chicago schools. Mr. McCoy's transfer was ordered on the basis of charges against him which he was never given an opportunity to answer. Superintendent Johnson's treatment of him was unjust and contrary to principles of good school administration.

Voluntary Complaints From Teachers and Other Chicago Citizens

During the course of the investigation a considerable volume of unsolicited information concerning conditions in the schools was voluntarily presented to the Committee by parents, teachers, and principals. These communications have covered a variety of conditions and have been given careful consideration by the Committee. Briefly, they may be summarized as follows:

1. In a number of the schools where the principal has a closer-than-normal relationship with Superintendent Johnson and Mr. McCahey, teachers feel insecure, intimidated, and generally discontented. They report numerous instances of favoritism bestowed upon other teachers who are subservient to the school administration and of unjust treatment of those who dare to question

an order from a superior. "Loyal" school employees are rewarded; critical ones are punished. Reprisal against particular school employees indicates that a "spy system" exists whereby employees' activities and conversations are reported regularly to the central school office.

2. Certain school principals appointed from the 1937 list are poorly qualified both professionally and temperamentally for their responsible positions and they give more attention to pleasing the Superintendent and the President of the Board than to administering their schools for the best interests of the children.
3. Certain principals arbitrarily change class assignments, shift teaching loads, issue conflicting orders, and generally confuse teaching routine without taking the time or trouble to enlist the understanding and cooperation of those most affected.
4. In some schools publicity stunts, numerous collections and drives for various war efforts, promotional programs, and other such activities take precedence over regular instruction and the orderly guidance of the students. Teachers and students are judged more by the showing their classes make on these activities than on the quality of their educational programs.
5. Parents are not welcomed in the schools except on special days when particular preparations have been made for their visits. In some schools it is virtually impossible for a parent to confer with the principal or a teacher about a child's work or school adjustment without running a gamut of embarrassing permissions and appointments.
6. Many classes are so overcrowded that students cannot receive the individual attention they require. Although substitutes are known to be available, classes in some schools are allowed to go for weeks without teachers.
7. The health of several principals and teachers has been impaired by the nervous strain of working under the present school administration.
8. The political affiliation and loyalty of a teacher or principal rather than his professional merit frequently conditions his promotions.

The Committee is thoroughly convinced that the various complaints summarized above have a sound basis in fact and that the Chicago school administration is largely responsible for these conditions.

Certification of Teachers

In most cities of the United States the certification of teachers is a state function. In such cities the board of education is free to employ any teacher properly certificated by the state department of education. Generally the state certification of teachers is based largely upon

academic preparation apparently upon the theory that the employing boards should exercise their authority to select teachers by examination from certified applicants on the basis of their personality, attitude, and ability to succeed.

Under the provision of the Otis law, the Chicago Board of Education is required to appoint and promote teachers, principals, and other educational employees on the basis of merit only. The State of Illinois has no voice in the certification or qualifications of the Chicago teachers. The Otis law, Section 138, sets up a board of three examiners whose duty it is to examine all applicants required to hold certificates. This Board of Examiners consists of the Superintendent of Schools together with two persons nominated by him and appointed by the Board of Education. The two elected members of the examining board hold office for a period of two years.

Because of the provisions of the Otis law the certification of teachers can be determined largely by the Superintendent of Schools because he selects the other members of the Board of Examiners for terms of two years only and because these members are without tenure or other legal protection.

As it is at present organized, the Board of Examiners carries a heavy responsibility for the future quality and efficiency of the Chicago schools. Only those candidates for educational positions who are approved by this board can become teachers in the Chicago schools. This board also admits all students by examination to the Chicago Teachers College, graduates of which are practically the sole source of new teachers for the Chicago school system.

The regulations under which the board operates set high standards for the qualifications of teachers. Candidates for principal's certificates must hold at least a master's degree in education and must have had six years' experience in the Chicago schools; candidates for high-school certificates must have a master's degree in their major subject; and candidates for elementary certificates must be graduates of a four-year accredited teachers college. These standards compare favorably with any school system in the United States and should assure Chicago of well-prepared teachers.

On the other hand, a number of the regulations are of such a nature as to prevent the appointment, except in rare instances, of teachers who are not residents of Chicago and also of teachers who have not had a considerable part of their preparation in the Chicago Teachers College. Every large school system has a large corps of local teachers, but it is generally agreed that the bringing in of a number of teachers from the outside with their different viewpoints and methods of preparation is conducive to better teaching. Also, where the appointment of teachers is largely confined to residents of the city there is an increased danger of political or machine domination of teacher appointments. There are numerous indications that such domination has been exercised in many cases in Chicago.

An almost complete monopoly of the training of Chicago's teachers by the Chicago Teachers College throws a heavy responsibility upon that institution and makes it extremely important that its work be of high quality and that every possible protection of the quality, independence, and integrity of the school be thrown around it. As the number of freshmen students admitted each year is limited and determined by the administration, the examining board is reported to be under pressure to admit relatives of certain politicians and other favored individuals. The present legal basis and the operation of the examining board do not provide the best protection from such pressure. The much-discussed principals' examination of 1937 reveals clearly the weaknesses of the Chicago plan of teacher certification and the possibilities of defeating the merit system of appointment required by law through the improper domination of the examining board by the Superintendent.

If Chicago wishes to retain its own Board of Examiners and to have an impartial, competent, and professional certification of teachers as free as possible from political and improper controls, an independent Board of Examiners should be established providing that the members shall be appointed on a merit basis and shall be placed on a system of tenure which will prevent their discharge or transfer except for good cause.

Chicago should draw into its system the best possible teachers irrespective of place of residence or preparation and the Investigating Committee recommends changing the rules of the Board of Examiners so that nonresidents and graduates of qualified institutions other than the Chicago Teachers College be eligible for selection.

The Principals' Examination of 1937

One of the first official acts of Superintendent Johnson's administration to seriously impair his professional reputation and to undermine teachers' confidence in him was the principals' examination of 1936-37. As provided by law, the Chicago schools' Board of Examiners consisting of Superintendent Johnson and two persons (Henry S. Crane and Harry T. Baker) "approved and appointed by the board of education upon the nomination of the superintendent of schools," conducted an examination and certified an "eligible list" of 155 principals. The examination consisted of a written portion (a test of the candidate's attainments in his professional field) given in September 1936, and an oral portion (including an evaluation of the candidate's record and a personal interview with an oral board appointed by the Board of Examiners) given during March and April 1937. The oral and written portions were to be given equal value in determining the total mark and a general average of 80 percent was required to pass the whole examination.

The legality of this eligible list and of the examination was attacked in the Superior Court of Cook County in the case of Hiram B. Loomis vs. Board of Education and again in the case of Raymond M. Cook vs. Board of Education. Twice the Superior Court sustained the charges of illegality but, in both cases, the higher courts reversed the decisions because of technicalities. This contested list, still under the attack from the major teachers organizations and civic groups, stands today as the source from which appointments to principalships are made.

The Investigating Committee has carefully studied the facts surrounding the principals' examination and the numerous charges against Superintendent Johnson in connection with it. From its investigation, the Committee concludes that the following irregularities existed in the methods of administering the examination and in preparation of the eligible list:

1. Henry S. Crane, one of the members of the Board of Examiners, was serving on a day-to-day basis, his term having expired several years prior to this examination. Being past the retirement age of 65 years, he would have lost his $7,500 position and been compelled to retire on an $1,800 pension any time Superintendent Johnson might have decided to appoint his successor.
2. Superintendent Johnson had a personal and financial interest in this particular examination. During 1935, when it was generally known that he was a candidate for the superintendency, he was teaching university classes including teachers who were interested in Chicago principalships and he had organized lucrative, private tutoring groups to prepare candidates for the examination. Therefore, as superintendent, he had a peculiar reason for desiring that certain individuals be certified.
3. Superintendent Johnson caused the Board of Examiners to change the rules regarding the examination a week before it was begun in order to make sure that "no grade lower than 75 percent on the personal interview or personal oral test" would be accepted no matter how well a candidate passed the written test and the evaluation of record. This sudden change in the rules made it easier for the Superintendent to fail selected applicants whom he had reason to believe would pass high written tests but against whom he had some personal or political grudge.
4. The oral examination was conducted in a highly unethical manner. The evaluation of record, which was to count one-fourth of the examination, gave no credit for experience outside of Chicago, for nonteaching administrative experience or for experience in Chicago junior high schools. The same scholastic achievement and the same type of experience were not given the same credit among the various candidates.

The personal interviews were conducted by an oral board. Of the three members of the Board of Examiners only the Superin-

tendent was present at any of the interviews and he was not present at all of them. As substantiated by an affidavit from J. J. Zmrhal, one of the members of the oral board (see the case of Raymond M. Cook, p. 20), and agreed to by another examiner, Daniel J. Beeby, Superintendent Johnson instructed the oral board that certain candidates were to be failed before the candidates appeared and before any questions had been asked. Also, according to the affidavit, when Dr. Johnson was absent from any interviews, he left word as to which candidates he was "interested in," and, in some instances, he changed the agreed decision of the oral board both when he had been present and when he had not.

5. Unfair weighting was given the personal interview in arriving at the final average grade for each applicant. Eighty-one percent of the 155 candidates placed on the eligible list would have failed except for high "personal" grades which brought their averages up to 80 percent. On the other hand, of the 54 persons who had passed the written and the evaluation portions of the examination, 25 were failed on the interview and, therefore, did not receive certificates. In a number of cases this interview proved to be merely an unfair device by which to pass or fail certain candidates.
6. Nepotism and the influence of close personal and political ties with various school officials and leading politicians are surprisingly evident on the eligible list. Twelve of the 15 individuals in the first group of assignments from the disputed list had been students of Dr. Johnson in courses designed to prepare for the examination.

Also, it has been reliably charged that money payments were made to insure passing the examination, that questions were made known to certain favored candidates in advance of the examination, and that certain favored candidates were permitted to rewrite their examination papers privately after the formal written examination.

The Committee concludes that the principals' examination of 1937 was unprofessional, irregular, and probably illegal, despite the decisions of the courts based on technicalities. The Superintendent's control of the Board of Examiners, his last-minute change in the rules of examination procedure, and his power over the oral board gave him, in the language of the court brief for Raymond M. Cook:[5] "(1) An absolute veto upon the granting of a certificate to any candidate, and (2) the possibility of aiding a weak candidate by the gratuitous donation of points acquired in the 'personal oral examination' upon a wholly intangible, non-objective test, incapable of being preserved for future review, as to its fairness, freedom from fraud and discrimination, or the reverse."

[5] *Brief and Argument for Appellee* in the Appellate Court of Illinois, First District, February term, 1938 (No. 39958), p. 27.

The Committee further concludes that because Superintendent Johnson had trained applicants for this examination he should have disqualified himself as an examiner and should have left the conduct of the examination in the hands of the remaining members of the Board.

Since poorly qualified and improperly selected principals conceivably could hold the balance of power in Chicago's school system for a generation no matter what changes are made in the schoolboard personnel or in the higher administrative staff, the Investigating Committee recommends that a thorough and impartial investigation be made of all the records of and circumstances surrounding the principals' examination of 1937, that all persons who were improperly certified should have their certificates revoked, and that all who were unjustly discriminated against be either certified or reexamined.

Intimidation of Teachers

For many years Chicago has had a reputation for the vigor and fearlessness of its teachers organizations. Under the dynamic leadership of Margaret Haley, the Chicago Teachers Federation was a militant force against enemies of education for a generation. Most of the teachers of Chicago were outspoken; they criticized when they felt criticism was necessary and they were willing to stand up and be counted. The same spirit was shown in the 1930's when the teachers of Chicago, under the leadership of John Fewkes, successfully rebelled against the failure of the schoolboard to pay their salaries when due.

It was, therefore, a surprise to the Investigating Committee to find in Chicago today among thousands of teachers a state of fear and, on the part of many witnesses before the Committee, an insistence on secrecy for fear of reprisals. During the course of the investigation statements such as the following were made to the Committee: "I fear for my position should anyone see me at the Stevens";[6] "Most teachers feel they should not stick their necks out fearful of what might happen to them"; "I will talk with you if you will promise not to use my name." Many such instances might be cited which indicate the existence of unwholesome conditions in the Chicago school administration in regard to teacher attitude and control.

The Committee has concluded, after careful inquiry, that there has been during Superintendent Johnson's administration a studied plan:

1. To seek the control of teachers organizations either by extending favors to leaders, by attempting to divide the organizations, by members of the machine penetrating into the organizations, or by the actual capturing of its offices in elections.

[6] A number of the interviews with the Committee were held at the Stevens Hotel, Chicago.

2. To develop a "spy system" by which in most of the buildings there is located at least one individual who promptly reports to the downtown office teachers' conversations or conduct that they deem to indicate lack of submission to the current administration.
3. To develop a political machine inside the school system in which certain favorites are rapidly promoted to principalships and other desirable positions and a number of whom, in turn, set up in their own domains smaller machines in which "loyal" teachers are favored and teachers with independence, who do not approve of some of the current practices, are harassed, punished, or denied merited promotions.
4. To intimidate vast numbers of teachers by the punishment of outstanding leaders who have shown independence of judgment, as in the transfers of John DeBoer and Butler Laughlin, the transfer and final demotion of Raymond Cook, and the discharge and persecution of O. C. Taubeneck, executive secretary of the Principals' Club.

The responsibility for these practices must be borne by Superintendent Johnson, by President McCahey, and by the submissive majority of the Board of Education. The lack of democracy in the management of the Chicago schoolboard and the failure of the administration to respect the rights of teachers to free discussion and independence of judgment have had a destructive effect upon teacher morale and have made it most difficult for teachers to develop proper ideals of citizenship and civic behavior in the classrooms and among the school children of Chicago. The best type of American school administration is the type which depends upon leadership and integrity and fair dealing to secure cooperation of teachers and their effective execution of school policies.

Fortunately, Chicago has a great body of well-prepared teachers who, in spite of obstacles, are loyal to the traditions of the teaching profession and are devoted to the best interests of the children in their charge. Also, the leading teachers organizations in Chicago have a splendid history of independence and achievement, and, in spite of attempts to control them, there is every indication that they will be able to preserve or reestablish the conditions necessary for effective work in the classroom.

For many years Chicago has had a tenure law which has to a great extent protected teachers from unjust discharge and has made it possible for many teachers to resist bad school conditions and extreme political control. While the tenure statute is far from satisfactory, it is most fortunate for the school children of Chicago that tenure protection has been given to its teachers. If it were not for tenure, it is possible that the schools of Chicago would now be hopelessly disorganized and completely dominated by politics and corruption.

Teachers' Salaries

Chicago has always had the reputation of paying good salaries to teachers. As a result, there have been in the past many applications for teaching positions, a very small turnover of teachers, and a long waiting list of certified teachers. With James B. McCahey's appointment to the presidency and his assumption of control of the schoolboard, the salary policy of the Chicago schools changed for the worse. As an economy measure, the Board made a drastic reduction in scheduled salaries and further cut teachers' pay by shortening the school term in the early years of the depression. Depression conditions might have excused but should not have justified this treatment of teachers.

Mr. McCahey makes a personal virtue out of the present sound financial condition of the Chicago school system and claims for himself great credit for his financial ability. As a matter of fact, the school systems all over the country were confronted with financial conditions somewhat similar to that of Chicago, and all of them because of improvements in our national economic life are now in a sound financial condition. The schoolboard directed and controlled by Mr. McCahey has only very recently restored teachers' salaries to their predepression levels whereas most of the cities of the country have given teachers wartime bonuses and increases in salary because of the great increase in the cost of living. Adjustments of this type by the Chicago schoolboard have been negligible.

According to the 1944-45 biennial salary survey of the NEA Research Division, in 81 cities with populations of more than 100,000 the average increase in elementary-school teachers' salaries from 1930-1945 has been 22.9 percent, for high-school teachers, 17.7 percent. In Chicago, during the same period, the median salary for elementary teachers has increased 4.7 percent and for high-school teachers, 10.5 percent largely through automatic advances on the salary schedule.

The only increases given the Chicago teachers by the Board of Education have been brought about by a recent slight revision of the old salary schedule which has been in effect for over 20 years. The net increase for elementary teachers has been a permanent salary increase of 5 percent and an increase in the schedule for younger teachers varying from 5.2 percent to 8.4 percent. The revised schedule for high-school teachers has provided no increase whatever for teachers having 10 years or more experience, and increases have been granted to less-experienced teachers varying from 5.5 percent to 10 percent.

The following table for cities over one million in population indicates that Chicago elementary teachers are not as well paid as those in most of the large cities and that salary increases during the war period have been less liberal than in most cities of this group.

MEDIAN SALARIES PAID ELEMENTARY AND SENIOR HIGH-SCHOOL TEACHERS IN LARGE CITIES, 1930-31 AND 1944-45

	Median salaries 1944-45		Median salaries 1930-31		Percent increase in medians 1930-31 to 1944-45	
	Elem.	Sen. high	Elem.	Sen. high	Elem.	Sen. high
CHICAGO	$2637	$3831	$2519	$3467	4.68	10.50
NEW YORK	3351	4500	3126	3890	7.20	15.68
LOS ANGELES	2780	3284	2203	2603	28.92	24.24
DETROIT	3209	3403	2063	2833	55.55	20.12
PHILADELPHIA	2637	3442	2275	3242	15.91	6.17

In view of the salary increases given teachers in other sections of the country and the fact that the cost of living has gone up approximately 40 percent and is still increasing, Chicago should give immediate consideration to adequate salary increases to teachers, particularly in the elementary schools. This should be done if this city wishes to maintain its relative position among the cities of the country and to make teaching sufficiently attractive to recruit and hold the best type of individuals.

Teacher Tenure

Teacher tenure provides one of the most successful methods whereby teacher morale may be maintained and politics prevented from dominating or controlling the education of the community. The teachers of Chicago are employed under a tenure law passed by the Illinois Legislature in 1917. This law provides that teachers and principals who have served a probationary period of three years shall not be removed except for cause and then only by a vote of not less than a majority of the Board after written charges have been presented by the Superintendent. Before voting, the members of the Board are required to serve a thirty-day notice upon the person against whom the charges are made and to hold a hearing at which the accused person has the right to be present and to offer evidence and defense. The law further provides that the action and decision of the Board shall be final.

There are a number of defects in this tenure law, among which may be mentioned its failure to protect teachers and principals against demotion or reduction in salary and its failure to provide for an appeal from a decision of the Board. In spite of its defects, however, the tenure law of Chicago has been the major obstacle against the wrecking of the Chicago schools during the Johnson-McCahey period of control. Superintendent Johnson and the Board in their dealings with teachers have avoided situations which would permit hearings under the tenure law.

While tenure is a basic protection against the disruption of the school system, it cannot be expected to protect the schools against

improper transfers of teachers, the rapid advancement of unfit people, discrimination against competent teachers, or the existence of a "spy system" or other unprofessional procedures. Protections of this sort can only be maintained through the vigilance of fearless and protective teachers organizations and through public objections to such undemocratic and unethical practices.

Overcrowded Classrooms

The overcrowding of classrooms is a practice all too common in American cities. It is widely permitted and even encouraged as an economy measure, but it results in considerable wasting of school facilities and ineffectiveness of teaching effort which more than offset any temporary financial savings. In large classes teachers are unable to know each child thoroughly or to give individual help to all of the children who need it. Therefore, overcrowding results in a lack of understanding of the schoolwork by a considerable percentage of the children and is often one of the causes of truancy and juvenile delinquency.

While the exact number of children who can be effectively taught in a classroom cannot be specified because it depends to some extent upon the subjectmatter and upon the personality, experience, and ability of the teacher, yet the profession quite generally holds that in high-school or departmentalized classes an enrolment of over 30 is questionable and over 35, definitely harmful. In elementary classes where teachers are with the children throughout the day, classes of from 30 to 35 are in most cases successfully handled, but as the enrolment exceeds 35 the number of teachers who can obtain satisfactory results decreases very rapidly. An elementary class of over 40 is generally regarded as undesirable and should not be permitted.

Since the Superintendent and the Board of Education refused to permit the Investigating Committee to visit the Chicago schools, it cannot present a complete record of overcrowding of classes. Also, the printed statistical records issued by the Superintendent do not show, as they should, the number and extent of overcrowded classes. However, the Committee made considerable inquiry of teachers, principals, and parents and studied such statistical material as was available. The Committee has knowledge of numerous overcrowded classrooms, particularly in the elementary schools, and in a number of high schools. Among the Negro children who, because of inadequate education elsewhere and problems of adjustment in a large city, are especially in need of careful teaching, overcrowding of classrooms is at its worst. There is little or no excuse for overcrowded classrooms in Chicago at the present time as the city is in excellent financial condition and enrolments have been decreasing for a number of years. Instead of making adequate reductions in class size and prohibiting the exist-

ence of excessively large classes, the schoolboard has unduly reduced the number of teachers employed, apparently as an economy measure.

In certain overcrowded areas inhabited largely by Negroes the school board has instituted double-shift schools which limit the educational opportunities of these children to four hours a day. Even in these double-shift, short-hour classes there is excessive overcrowding. It is important to Chicago as well as to the country that Negro children be given the best possible education. This cannot be done in double-shift schools or overcrowded rooms.

Textbooks

Article VIII, Paragraph 4, of the Constitution of the State of Illinois reads as follows:

> No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture, used or to be used in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the General Assembly.

It is clearly intended by the constitution that the adoptions of textbooks for the children of Illinois shall be safeguarded. This paragraph indicates in no uncertain terms that the school official charged with the responsibility of selecting textbooks is not expected to be a fair judge of the merits of his own books or equipment.

The Legislature of Illinois has implemented this constitutional provision by passing a statute (Smith-Hurd) Chapter 122, Paragraph 283, which reads as follows:

> No State, county, township, or district school officer or teacher shall be interested in the sale, proceeds, or profits of any book, apparatus or furniture used or to be used in any school in this State with which such officer or teacher may be connected; and for offending against the provisions of this section such state, county, township or district school officer or teacher shall be liable to indictment, and upon conviction shall be fined not less than twenty-five nor more than five hundred dollars, and may be imprisoned in the county jail not less than one nor more than twelve months, at the discretion of the court.

By passing this law the Legislature of the State of Illinois has implemented the above constitutional provision by making its violation a crime punishable by fine and imprisonment.

The Otis law, which is the basic statute controlling the Chicago school system, passed by the Illinois Legislature in 1917, makes it the duty of the Superintendent of Schools to prescribe and control, subject to the approval of the Board of Education, the textbooks and equipment used in the Chicago schools. Irrespective of the appointment of a textbook committee or other methods used for the evaluation of textbooks, the final and full responsibility for their selection and use rests with the Superintendent.

Since he has been Superintendent of the Chicago schools, William H. Johnson has adopted, with the approval of the Board of Education, the following textbooks written either by himself or jointly with others or with his name appearing as author or joint author:

Title	*Publication Date*	*Publisher*
CHICAGO	1933	Newsom
STORIES OF CHICAGOLAND.	1936	"
GOOD TIMES TOGETHER....	1939	Lyons and Carnahan
FRIENDS ABOUT US.....	"	"
NEIGHBORS AND HELPERS.	"	"
THEN AND NOW.....	1938	"
WIDENING TRAILS	1939	"
ROADS OF PROGRESS.....	"	"
PROGRESS ON READING ROADS	1942	"
DRIVING THE READING ROAD	"	"
WORKING WITH ENGLISH..	1941	Macmillan
OUR ENGLISH POWER GROWS UP	"	"
THE ENGLISH WE NEED....	1943	Winston
FUNDAMENTALS OF ELECTRICITY*	"	Macmillan
FUNDAMENTALS OF SHOP WORK*	"	"
FUNDAMENTALS OF INDUSTRIAL ARTS AND VOCATIONAL EDUCATION	"	Goodheart and Wilcox
CERAMIC ARTS.....	1942	Macmillan
GRAPHIC ARTS	"	"
METAL CRAFTS	"	"
TEXTILE ARTS	1944	"
MODERN DRAFTING	1944	"
NEEDLECRAFT	1942	Webb Publishing Co.
WOODWORK	"	"

* Prepared at the request of the War Department and the U. S. Office of Education in conformance with official pre-induction training course outline No. PIT 103.

It is common knowledge that teachers and other school employees have written or have assisted in writing most of these books largely on school time. These books have been examined by the Investigating Committee and, while space does not permit a detailed evaluation of them, it may be said that they vary greatly in quality and that many of them are in fields in which Dr. Johnson has not taught and has not been trained or prepared and is not recognized as an authority.

Whether there has been a violation by Dr. Johnson of the Illinois statutes and constitution is for the Illinois courts to determine. It is claimed that his royalties on books purchased by the schoolboard have been remitted or deducted from the price. However, it is definitely known that he has received large annual royalties on these books because of their sale elsewhere. It is further known that the sale of these books outside of Chicago has been augmented and promoted because of their use by the second largest city of the country and that Dr. Johnson's royalties have thereby been increased. It would seem clear, therefore, that he is interested in the sale and profits of his own textbooks used in the Chicago schools of which he is superintendent.

The teaching profession throughout the years has considered unethical and unprofessional the acceptance of any profit by a teacher or superintendent from the adoption or use of textbooks or other materials written or published by him in all cases in which their adoption or use in his school system has been due to his influence or recommendations. This attitude of the teaching profession is illustrated by Section 14 of the *NEA Code of Ethics for Teachers* which reads as follows:

> A teacher should not act as an agent, or accept a commission, royalty, or other compensation, for endorsing books or other school materials in the selection or purchase of which he can exert influence, or concerning which he can exercise the right of decision; nor should he accept a commission or other compensation for helping another teacher to secure a position.

In the opinion of the Committee, Dr. Johnson, in recommending the use of his own textbooks in the city of Chicago, violated the Code of Ethics of the teaching profession. The Committee further believes that it is the duty of a superintendent in the selection of textbooks to recommend in each case the best books obtainable and that since he cannot be a fair judge of the quality of his own books he should scrupulously avoid recommending such of his own textbooks as are on sale in the open market and should confine his recommendations of such books to those from which he cannot make a financial profit either directly or indirectly.

This investigation is concerned almost wholly with personnel practices in the Chicago schools; therefore, the Committee has not attempted to investigate the general adoption of textbooks. However, it has given considerable attention to the adoption of the Pitman shorthand textbooks in 1935 as this adoption illustrates bad personnel practice. During the spring of that year, Mr. James B. McCahey, president of the Board, made a trip to Europe during part of which time he was a guest of the Pitman family at Barth, England. Shortly after his return from this trip, the Pitman system was substituted for other systems of shorthand then being taught in the Chicago schools. The Committee has evidence in its files not only that Mr. McCahey favored the adoption of the Pitman system at this time, but also that he ordered Superintendent Bogan to see to it that only the Pitman system be used. Its compulsory use in Chicago schools occurred after Dr. Johnson became Superintendent.

Not only is it for the best interests of the children of the Chicago schools that the Superintendent recommend the best possible books but also that the President and other members of the schoolboard should not select or force upon the children of Chicago textbooks of the Board's own choosing. The Board's legal and proper functioning in textbook adoption should consist of approval or disapproval of the professional recommendations of the Superintendent.

The Committee has evidence in its possession which indicates that information was obtained by a number of shorthand publishing

houses of the intention of Mr. McCahey to change shorthand systems and that one of these concerns sent a representative to Chicago with $30,000 in cash for the purpose of securing the adoption of his system. He carried on negotiations among others with one Skidmore, a notorious underworld character, with apparent prospects of success but was finally informed that "everything is off because the other company raised the ante." This incident is not in the field of the Committee's investigation but is cited as an indication of the necessity of throwing around the selection of textbooks every possible safeguard for protection of the school children of Chicago.

The Functioning of the Board of Education

The schools of Chicago are a part of the state school system, and the Board of Education derives all of its authority from the state legislature. Each Board member is in effect a state official charged with the responsibility of making effective the legislature's orders in regard to the education of the children in Chicago. The authority of the legislature is derived from the Constitution of the State of Illinois which, in Article VIII, Section 1, provides that "The General Assembly shall provide a thorough and efficient system of free schools whereby all the children of this State may receive a good common school education." In compliance with this requirement of the constitution the legislature enacted the Otis law in 1917. This law, with subsequent amendments, provides for the appointment of a Board of Education and gives to it all the authority it has to manage and control the Chicago school system.

Although the legislature has provided for elected boards of education in other cities and communities in the state, in Chicago it has provided for the appointment of the Board of Education by the mayor with the approval of the Common Council. The schoolboard consists of eleven members who are appointed for terms of five years, two members being appointed each year for four years and three being appointed in the fifth year.

By providing for the appointment of approximately a fifth of the Board members each year and by providing for a five-year term for each member, the legislature has evidently attempted to safeguard the Board from the ordinary danger of domination by the appointing power. It would not be possible for a mayor, even if he wished to do so, to control or dominate a board of education in Chicago, at least until the end of his four-year term. The reelection of a mayor, however, destroys the value of this safeguard and tends to place full responsibility for avoidance of domination upon the mayor himself.

The Otis law has placed upon the Board of Education almost complete responsibility for the operation and development of the public schools of Chicago. The Board has been given the general supervision and management of public education and the public-school system of the city and is given the power to make suitable provision for the establishment and maintenance of schools of all grades and kinds.

One of the provisions of the Otis law which is in conflict with best practice elsewhere and which has prevented effective professional administration is the establishment of three executive heads of the school system. It provides that the Board of Education shall appoint a Superintendent of Schools who shall have general charge and control, subject to the approval of the Board of Education, of the education department, and of the employees therein of the public schools. The Board of Education is likewise required to appoint a business manager, who shall have general charge and control, subject to the approval of the Board, of the business department and of the employees therein. The law further requires that the Board shall appoint an attorney, who shall have general charge and control of the law department.

The Board is also authorized to appoint such other officials and employees as it may deem necessary. Under this authorization the Board has appointed a secretary who apparently acts independently of the other executive heads and reports to the Board of Education in regard to functions assigned to his office.

Experience has shown that it is best for a schoolboard to have as its chief executive officer the superintendent of schools, with the business manager and other executive officers serving under him and reporting through him to the board of education. Under this plan the superintendent of schools can be held fully responsible for the entire management of the schools. Jurisdictional disputes can be eliminated and the unwise exercise of administrative functions by the board or its president largely prevented.

Experience has also shown that city boards of education cannot successfully exercise all of the authority granted to them. In the best operated school systems the boards have delegated to trained professional executives a considerable amount of the traditional administrative authority permitted to them by law. The administration of the public schools of large cities has become so involved and complicated that it requires the attention of a carefully trained, full-time executive. Whether or not it is required by law, it is wise for a board of education to act solely as a policy forming and judicial body, and it should delegate its executive authority to a full-time executive officer who should be held fully responsible for carrying out the board's policies. In general, the secret of success of a board of education is the wise delegation of many of its legal powers.

Apparently, it is the intention of the legislature as expressed in the Otis law, and of the Board of Education as expressed by its rules, that the President of the Board shall not be an executive officer and

shall not exercise administrative functions or directly manage the schools except in emergency matters and then only with very limited authority.

Where dissension and mismanagement exist in the operation of city school systems one of the most common causes is the excessive exercise of administrative functions by the President of the Board. Another frequent source of trouble is the domination of the Board by one member, thus preventing other members from exercising their legislative functions.

In many respects the present Board of Education in Chicago is functioning as though it were in charge of a village too small to have a superintendent. The President of the Board has attempted to act as Superintendent of Schools, making decisions and inducing recommendations from executives far outside his legal authority and for which he is not prepared either by experience or training. He maintains a suite of offices at the school headquarters, and has a staff of employees with a higher budget allowance than the Superintendent of Schools; he keeps daily office hours and frequently spends more time at the headquarters than the Superintendent. In spite of the Board rule which limits his authority to emergency matters only, he daily exercises administrative functions that should be left entirely to professionally trained people.

A heavy responsibility rests upon each Board member to see to it that every child in Chicago has the best possible education, and for this reason no public position is more important, and no Board member has the right to serve who is not willing to keep informed about the problems coming before him and to exercise his best and independent judgment in each case. No Board member has the right to submit to "one-man" control. So great is their responsibility that there should be no place on the Chicago Board of Education for persons who are seeking business or professional advantage from the schools, or for people who are politically minded and inclined to make political decisions in regard to school questions or the appointment of school personnel, or for people who are more friendly to private schools than to public schools. Nor should there be a place for those who are controlled in their decisions by any political party or minority group, or who are unwilling to serve the best interests of the whole community, or for those who wish to appoint to school positions their own relatives or will seek to appoint anyone except on the basis of merit and ability to serve the public, or those who are willing to allow the Superintendent or other employees to misdirect or improperly operate the schools.

It is to be expected that in the operation of a board of education in a city the size of Chicago there would be frequent differences of opinion between the board members as to policies and action and there would be some discussion of these differences at board meetings. Under the law, the authority of the members of the Board of Educa-

tion can be exercised only at regular or special meetings. Agreements of individual members when the Board is not in session are not binding. It might therefore be expected that Board meetings would be rather lengthy and well attended. In Chicago, meetings are scheduled every two weeks. From July 1, 1944, to March 1, 1945, twenty-four meetings of the Chicago Board of Education should have been held. Actually, only fourteen meetings were held, the others being canceled because of failure of Board members to attend. The official minutes of the Board do not show any public debate or discussion at any of these meetings.

During this period 569 orders, motions, resolutions, and reports were presented to the Board for its action. These actions were presented in omnibus form, sometimes dozens of actions being included in a single motion. Altogether 76 votes were taken on business before the Board and in only five cases was a negative vote recorded. This negative vote in each case was cast by the same Board member, namely, Mrs. Walter F. Heineman, who has consistently insisted upon democratic operation of the Board.

Meetings of the Board of Education are open to the public in a room large enough for the attendance of 150 to 200 citizens. The purpose of public meetings of the Board should be to permit citizens of Chicago to find out how the schools are being administered, to observe the attitude and conduct of its representatives on the Board, and to have some influence upon the management of school affairs. Public meetings of the Board of Education are deliberately planned and carried out so that the public will be unable by attendance at Board meetings to find out what is going on in the management and operation of the schools of Chicago. Resolutions, motions, and reports are customarily voted on, not separately, but in large groups. There is every evidence of suppression of debate and of a determination to prevent anyone in the audience from obtaining any knowledge of matters before the Board.

A member of the Investigating Committee attended a Board meeting on February 21, 1945. The meeting scheduled at two o'clock did not convene until 3:19 p.m. Twenty-six motions, indistinctly read by title and number, seemed to constitute the report of the Superintendent although he did not speak and made no explanations or oral recommendations. Without debate these motions were adopted unanimously. Then 36 reports, motions, and resolutions of the business manager were indistinctly read by title and number, but the business manager made no comment or oral recommendations. These motions were adopted unanimously in a single motion with no recommendations even called for by the chairman. In the same manner three reports of the schoolboard attorney, not presented or discussed by him, were adopted without an opportunity for discussion. The Board then adjourned at 3:28 p.m. The elapsed time from the roll call to final adjournment was less than nine minutes.

The method of conducting this meeting was of such a nature that no citizen in the audience could obtain any information whatever about the action of the Board. This procedure is not only undemocratic but also has the effect of creating suspicion on the part of the public as to the integrity and motives of the members of the Board of Education. Later inquiry revealed that a number of matters of considerable importance were considered. At this February 21 Board meeting, among other actions taken was the awarding of contracts for school milk about which there had been considerable discussion in the press and about which it was alleged that the lowest bid for the contract was rejected in favor of a higher price.

There seems to be very little realization on the part of most of the members of the Board of Education that they are public servants, that the schools belong to the people, and that the public is entitled to full knowledge of school affairs and full voice in the determination of school policies. It should be the responsibility of every member of the Board to keep the people of the community informed regarding the aims and needs of the schools. Every effort should be made to bring the citizens and the schools into closer understanding and cooperation in order that the needs of the children may be better met.

After the beginning of its investigation by the National Education Association the Board of Education employed a director of public relations at a salary of $7,500 a year and installed him in an office adjoining that of the President of the Board. Attention should be called to the fact that the best public relations agents for the Chicago Board of Education would be well-operated schools, teachers in sympathy with Board and administrative practices, and parents pleased with the results obtained in the training of their children.

From the standpoint of their obligations to the public a majority of the Board of Education is chargeable with such practices as:

1. Voting for the appointment of relatives of Board members to positions in the schools.
2. Allowing politicians to influence numerous appointments and contracts.
3. Failing to give courteous and careful consideration to suggestions and criticisms from teachers, parents, and civic organizations.
4. Failing to investigate charges of dishonesty and irregularities in the 1937 principals' examination and other charges against the school administration.
5. Conducting public Board meetings in such a way as to keep the public ignorant of school affairs.
6. Unjustly transferring and demoting efficient teachers without a hearing or advance notice.
7. Allowing the President of the Board to function as a school executive.

8. Allowing one or two people to make Board decisions or, in other words, permitting a "one-man" board.
9. Permitting a "spy system" to be operated among its employees.
10. Allowing children to be placed in overcrowded rooms, thus to a considerable extent defeating the purposes of the schools.
11. Permitting attempts to control, dominate, and frustrate teachers organizations; failing to protect the independence and morale of teachers; and failing to make adequate cost-of-living adjustments in teachers' salaries.

These and other practices of the majority members of the Board of Education help to explain the public distrust and suspicion that exist on the part of many people in Chicago toward the Board of Education and the public schools.

James B. McCahey as President of the Board

The Otis law provides that the Board of Education shall elect annually from its own number a president whose duties are to preside at the meetings of the Board and perform such other duties as shall be imposed upon him by the rules of the Board. The rules of the Chicago Board of Education provide that it shall be the duty of the President when the Board is not in session to act on each emergency matter that shall arise and that he shall report such action at the next regular meeting of the Board provided that no such action shall be final or binding unless ratified by the Board of Education. It is clear that the President of the Board has no executive authority except in emergency matters and then only to a very limited extent.

This limiting of the President's authority is in line with the practice throughout the country. There have been various instances in other parts of the United States where board presidents have attempted to exercise administrative authority, and in most instances these attempts have had injurious results because board presidents generally are not prepared either by training or experience to deal with the complicated and difficult problems involved in the administration of modern city schools.

In 1933 when Mr. McCahey became President of the Board for the first time, the nation was in the middle of its worst depression, and Chicago like many other cities was confronted with tremendous financial difficulties. In this emergency Mr. McCahey took charge of the school system and acted as the executive officer of the Board. In many cases he ignored or overruled the Superintendent of Schools and forced many drastic changes in the name of economy, some of which were justified and some of which were highly destructive in their effects on the best interests of the children of Chicago. He not

only acted in many cases as the superintendent of schools and business manager but also dominated the schoolboard so that Chicago in effect had a "one-man" board. School affairs were largely settled without full debate and consideration by the Board and without the safeguards that go with democratic operation of schoolboards. Unwilling in many cases to follow the advice and guidance of Superintendent Bogan, Mr. McCahey was largely instrumental in the selection of a new superintendent under obligation to him and willing to carry out his wishes. Having assumed a large degree of administrative control of the schools under the excuse of the depression, Mr. McCahey has continued this control to the present date.

Mr. McCahey takes great pride in the fact that the schools under his management are now solvent and in good financial condition. As a matter of fact, the improvement in the financial condition of the Chicago schools is largely due to the improved economic conditions in the country as a whole. Hundreds of other cities were, like Chicago, in financial distress in 1933, and all of them are now in sound financial condition. Practically all of them attained financial stability without the destructive elimination of necessary school activities and without giving up the proper and effective professional administration and democratic conduct of schoolboard affairs. Among the so-called economies which were injurious to the children of Chicago, and were forced upon the schools by Mr. McCahey, were the closing of all junior high schools, the elimination of manual training and home economics from the elementary schools, and the shortening of the school year to nine months.

Nowhere else in the United States will you find a president of a schoolboard who passes daily upon so many administrative matters, who has so active and direct a voice in detailed school management, who maintains an office force directly subject to his authority with a higher payroll than the office force of the Superintendent of Schools, and who has in an adjacent office and under his direction a director of public relations with a staff of employees. The school budget for 1945 provides Mr. McCahey with an office payroll of $1,666 per month as compared with $1,559 a month provided for the Superintendent of Schools for secretarial and clerical help. The budget also provides him annually with $100 car fare and $200 for telegrams, and a contingent fund of $65,000. Mr. McCahey maintains regular office hours daily from 2:30 p.m. to 5 p.m. and on Saturday from 9 a.m. until noon. Following his example the Vicepresident of the Board, Mr. Bernard L. Majewski, maintains daily office hours from 3 to 5 p. m. at the Educational Administration Building. While Mr. McCahey may consider this a great contribution of his time and ability to public affairs, yet his taking over of administrative functions which should be properly exercised by especially trained and selected professional officials has had a destructive effect on teacher morale and on the proper functioning of the Chicago public schools.

The investigations of our Committee show many instances in which Mr. McCahey has usurped the powers and authority properly belonging to the superintendent of schools and the business manager. He has interceded successfully in many cases in applications for appointment of politically-recommended individuals. It is largely through him that the political machine functions in controlling appointments and contracts. His sense of control is so great that he even attempted to have the grades of a student at the Teachers College in whom he had a certain interest changed from failure to passing.

The laws of many states prohibit the appointment of relatives by a board member or other public official. An example of glaring nepotism is set by Mr. McCahey who has three sisters and other relatives employed by the Board.

Mr. McCahey had an active part in the irregular and unjust transfer of Dr. John DeBoer from the Teachers College without prior notice or statement of causes. Prior to the vote of the schoolboard on this transfer his office was active among the Board members in circulating statements unjustly attacking the patriotism and loyalty to democracy of Dr. DeBoer. Mr. McCahey has also had an active part in numerous other unjustifiable transfers.

Mr. McCahey's conduct of schoolboard meetings has been of such a nature as to prevent the public from obtaining a knowledge of school business and to hinder free and democratic discussion of school matters by members of the Board of Education. The Investigating Committee knows of no city where schoolboard meetings are conducted with such disregard for the public and such evident attempts to prevent the people from following intelligently the transaction of school business.

Mr. McCahey seems to resent efforts of civic groups to seek improvements in school procedure and in the exercise of their rights of citizenship in working for school betterment. Speaking of several civic organizations that have been vitally interested in improving the schools, he stated in an address on April 11, 1945 that "these groups made themselves heard during the political campaigns when they were always available for resolutions and statements derogatory to the administration, so they began a campaign to smear."

Another notorious example of usurpation of power was his part in the Pitman shorthand deal in which the Superintendent under duress recommended the substitution of Pitman for other systems of shorthand then in use in Chicago.

Not only have many of the appointments of assistants, of regular school employees, and long-time appointments of substitute teachers come through Mr. McCahey's office, but he has also given some time and attention to attempting to dominate and control teachers organizations and their officers.

Much of the responsibility for the destruction of teacher morale and the fear and discouragement that exist among many of the teach-

ers must be assumed by Mr. McCahey because of his domination of the Chicago schoolboard and administration, and because of his undemocratic and unwise interference with the orderly professional management of the schools and teachers.

Through his control of the business department of the schools and his responsibility for the appointment of numerous teachers and other officials, Mr. McCahey, like Superintendent Johnson, has established channels of communication with many of the schools whereby he obtains detailed information that he desires about various principals and teachers. The knowledge that such a "spy system" exists is one of the numerous causes of teacher discouragement and fear.

Mr. McCahey does not seem to realize that one of the most important functions of a schoolboard should be to protect teachers and create an atmosphere of confidence and to promote other favorable conditions which will result in the best possible teaching conditions in each classroom. The millions of dollars spent monthly by the Chicago schools are worthwhile only if the teachers are protected and encouraged so as to exercise the best possible influence on the children in their charge. This is more important than new school buildings or a balanced budget or the collection of scrap or a reduction of the tax levy.

William H. Johnson as Superintendent of Schools

The most important public official in the city of Chicago is the superintendent of schools because upon him to a large extent depends the character, training, and civic attitude of the future citizens of this city. The spirit, purposes, and efficiency of the schools are vitally affected by the character, ability, integrity, leadership, and judgment of the superintendent of schools. He sets the pattern for the development of the schools and, in the course of time, the schools will be definitely marked for better or worse by what he is and does. He should be the adviser and guide of the board of education. He also should be the leader, inspirer, and friend of the teachers. The attitude of the public toward education will be largely influenced by its belief in the integrity, character, and ability of the superintendent of schools.

According to Ellwood P. Cubberley,[7] "The man who would be a superintendent of schools—the educational leader of a city—must be clean, both in person and mind; he must be temperate, both in speech and act; he must be honest and square, and able to look men straight in the eye; and he must be possessed of a high sense of personal honor . . . He must have the manners and courtesy of a gentleman, without being flabby or weak. He must not be affected by a desire to stand

[7] Cubberley, Ellwood P., *Public School Administration*. Boston: Houghton Mifflin Co., 1929. P. 227-28.

in the community limelight, or to talk unnecessarily about his own accomplishments. . . . He must learn to lead by reason of his larger knowledge and his contagious enthusiasm, rather than to drive by reason of his superior power. The powers and prerogatives which are guaranteed him by law he must know how to use wisely, and he should be able to win new powers and prerogatives from the board largely by reason of his ability to use them well. He must constantly remember that he represents the whole community and not any part or fraction of it, and he must deal equal justice to all."

Superintendent William H. Johnson was born in Chicago on September 20, 1895. His first teaching position was in the high school at Palatine, Illinois, in 1917. In 1921 he became a teacher of science and mathematics in the Lane Technical High School in Chicago. From 1925 until 1935 he served as a public elementary-school principal. He served nine months as Assistant Superintendent in charge of high schools before becoming Superintendent of Schools in April 1936. In addition to his public-school work he was an instructor of education at Loyola University during evenings and vacations from 1924 until he was elected Superintendent in 1936. At the time of his appointment as Superintendent he had no prior experience in this field.

The Investigating Committee is reliably informed that in 1935, there being two vacancies in the assistant superintendencies of the Chicago schools, Superintendent Bogan, after consulting with his five assistants, went to Mr. James B. McCahey, president of the board, and stated his choices for the vacancies. Mr. McCahey is reported to have pulled a paper off his desk containing the names of Dr. Johnson and another person which were not on Mr. Bogan's list and to have stated that these were the ones he wanted appointed as assistant superintendents. Under pressure from Mr. McCahey, Superintendent Bogan adopted these recommendations and the Board appointed Dr. Johnson as the assistant superintendent in charge of high schools.

At about this time a number of Dr. Johnson's students at Loyola University and other of his followers in the school system became active, with Dr. Johnson's knowledge, in a movement to have him appointed to Mr. Bogan's position, which was not vacant. Superintendent Bogan died in March 1936, shortly before the expiration of his contract. Shortly thereafter, on April 22, 1936, at the insistence of Mr. McCahey, the schoolboard appointed Dr. William H. Johnson Superintendent.

Dr. Johnson was handicapped as Superintendent because of his lack of prior experience in this position, and because he was under obligation to and under the control of James B. McCahey, President of the Board. That Superintendent Johnson willingly submitted to domination is indicated by the following statement reliably attributed to him: "I am no fool. I am willing to go along for what the job pays. I get $15,000 a year and that is more than any college professor gets."

Beginning in the fall of 1936 an examination for principals was held. Under the Chicago law no person can be appointed a principal who does not have a certificate based on an examination given by a Board of Examiners consisting of three members one of whom is the Superintendent of Schools. Over 700 candidates took these examinations. One hundred fifty-five of these candidates were issued certificates. Of this number 122 had prepared for this examination under the instruction of Dr. Johnson either in Loyola University or privately for fees. Instead of disqualifying himself in these cases Dr. Johnson was an active participant in the oral examination and used his influence to secure certificates for some of his students who were graded low in the written examination and also used his influence to prevent the issuance of certificates to a number of candidates who had high grades in the written examination and whom he seemed personally to dislike. Against charges of dishonesty and improper conduct of the examination Dr. Johnson has made no public defense although these charges involved his professional standing and integrity. Since that time no principals' examination has been held, and all appointments to principalships have come from this list. Dr. Johnson has advanced from this list practically all his former students and close associates.

Under the Otis law it is the duty of Dr. Johnson as superintendent of schools to prescribe and control, subject to the approval of the Board of Education, the courses of study, educational apparatus, discipline in and conduct of the schools. Only upon his recommendation can teachers, principals, and assistant superintendents be appointed, promoted, or transferred. Appointments and promotions of principals, teachers, and other educational employees are required by law to be made for merit only. In making promotions and appointments in numerous cases, outstanding teachers and principals whose ability and experience justified consideration for promotion, but who were not a part of the "inner circle," failed to receive recognition. Often promotions were given to individuals who were lacking in experience and ability but who were "loyal" and submissive to control and domination.

Under the law the Superintendent is responsible for the transfer of educational employees. In numerous cases the transferring power of the Superintendent has been misused. Competent and effective public servants have been transferred not in the public interest but in some cases because they were unwilling to violate their professional beliefs and standards or because they were not docile members of the "inner organization" or because vacancies, thus created, could be filled with political or administrative favorites. Many of these transfers were made without a prior statement of cause or prior notice, were unprofessional, and were destructive of teacher morale. The effect of numbers of these transfers has been to create among teachers a state of fear and to destroy confidence in the fairness and integrity of the Superintendent.

The Otis law provides that textbooks and other educational equipment shall be adopted and purchased by the Board of Education only upon the recommendation of the Superintendent of Schools. Final and full responsibility for the adoption of textbooks rests with Superintendent Johnson. In spite of the clear intent of the Illinois Constitution, the statutes of the state, and the code of ethics of the teaching profession, Superintendent Johnson has caused the adoption by the Chicago schools of more than twenty textbooks bearing his name as author or co-author. The use of these textbooks in many of the schools of Chicago has at least indirectly benefited Superintendent Johnson financially because their use in Chicago has resulted in their adoption in other places from which he received royalties. Their adoption also has had the unfortunate effect of decreasing public and professional respect for the Superintendent of Schools.

One of the chief obligations of the Superintendent of Schools is to develop a spirit of cooperation among the teachers and to maintain a high level of teacher morale. The Committee finds that thousands of Chicago teachers are depressed and discouraged and are working in a state of fear of reprisal without hope of promotion. Their conviction that the Superintendent maintains a "spy system" is justified by various incidents that have come to the attention of the Committee and by a statement attributed to the Superintendent that matters of concern to him are reported to his office within twenty-four hours from every school in the city. The Superintendent has not only failed to develop the necessary esprit de corps among Chicago teachers but is to a considerable extent directly responsible for the lack of it.

Superintendent Johnson as head of the schools is directly in contact with various accrediting associations which pass upon the high schools and colleges under the management of the schoolboard. The Investigating Committee cannot approve of such practices as directing investigators to selected classes, giving advance notice to teachers in these classes in order that especially-prepared lessons may be exhibited, giving elaborate banquets and luncheons to investigators prior to and during the investigation, and offering prospective investigators fees for lectures or other services.

Experience has shown that children in school benefit from the development and free operation of a professional teachers organization. For many years teachers organizations in Chicago have been independent and alert and have served as a useful check upon improper management of the Chicago schools and dishonest use of school funds. The Investigating Committee finds that Superintendent Johnson had a direct part in attempts to control various teachers organizations in Chicago. For example, the Chicago Principals' Club which for many years had maintained an active stand against corruption and improper school management was taken over as a result of a secret conspiracy by a group of its members largely composed of principals who held certificates from the 1937 examination. One of the first acts of this

group was the discharge of Mr. O. C. Taubeneck, executive secretary, and a leader against graft and corruption, whose term did not expire until the following year.

The Committee would have liked to evaluate Superintendent Johnson's administration, giving due weight to his abilities and achievements as well as his failures, mistakes, and misconduct. This was made impossible by Superintendent Johnson's unwillingness to cooperate with the Committee and by his flat refusal even as late as March 28, 1945 to meet with the Committee to consider questions that had arisen in regard to his administration. The inquiry in regard to Superintendent Johnson has therefore been restricted to a consideration of certain of his personnel practices and their effects on the efficiency of the schools and the welfare of the school children of Chicago.

The Committee must conclude, after careful consideration, that Superintendent Johnson, irrespective of his achievements, has engaged in administrative practices which have been destructive of teacher morale and injurious to the schools of Chicago. It may be that as he says "all of my acts have been concurred in by the Board of Education," and that if the inner story were known a considerable part of the responsibility would have to be shifted to others. The fact remains that personnel conditions are not wholesome in the Chicago school system and that the next generation of Chicago citizens is going to be injuriously affected.

It is the measured conviction of the Investigating Committee that the opinion of large elements of the population in Chicago as to Superintendent Johnson's character, leadership, purposes, and judgment is such as seriously to condition his present and future usefulness as Superintendent of the Chicago schools. Also the fact that a considerable portion of the teaching body in Chicago lacks confidence in his leadership and professional integrity to a great extent destroys his present and future effectiveness as the educational head of the school system.

The Committee is not in a position to determine how the responsibility for this condition is divided among Superintendent Johnson, Mr. McCahey, the Board of Education, and the city administration. Irrespective of the responsibility, the problem is the same, namely, that of restoring in the Chicago schools administrative practices and personnel policies and procedures which are free from personal dictation and political manipulation—a system of school management in which the academic freedom and civil rights of school employees are protected and the best educational interests of Chicago's children hold first place as the basis for administrative decisions.

Financial Irregularities

Up to this point the Committee has made no reference to financial irregularities although they may be taken for granted in school cities having "one-man boards" and which are closely connected with political machines in the making of appointments and the awarding of contracts. There are two reasons for this apparent oversight; first, serious as financial corruption is, the destruction of teacher morale and the lack of integrity in school management are much more serious and do greater injury to the public welfare; and second, the Committee lacked subpoena powers thus preventing a thorough investigation in this field.

However, the Committee feels under obligation to mention a number of instances of financial irregularity which have received attention during the investigation and which should be known to the public.

In 1939 an investigation of the Chicago Board of Education was ordered by the state's attorney and was begun under the direction of Francis T. McCurrie. This investigation was never completed but it revealed, among other things, evidence of payments of bribes to public-school officials, the awarding of contracts to relatives of public-school officials, the contribution of money to political campaign funds by firms that received schoolboard contracts, the rejection of low bids in certain cases, the substitution of low-grade material for first-class material specified in contracts, and the awarding of contracts to firms owned by a well-known racketeer.

This report, in many places other than Chicago, would have resulted in a grand jury investigation. However, in this instance certain pressures were exerted, the report was suppressed and no further action was taken. Since that time a certain grading and construction company has received a large amount of schoolboard business.

The Investigating Committee has obtained information which would fully justify an official investigation of the ownership and control of the J. E. Porter Corporation, the Calumet Coal Company, the Ready Coal and Construction Company, and the Druley-O'Brien Coal Company, several of which have sold coal or other materials to the Board of Education. The Committee is reliably informed that, unless there has been a recent change in ownership, 75 percent of the stock of the Bishop-Hamlin Coal Sales Corporation and the Pocahontas Coal Company, from which the Chicago schoolboard has bought coal, is owned by one of the school officials.

When the Dearborn Plumbing and Heating Service took over the three-story building at 609 North Wells Street, the title deed was sent to the recorder by a schoolboard attorney and was later returned to him at Room 312, 228 North LaSalle Street, which is the room next door to Mr. McCahey's schoolboard office. The Dearborn Plumbing and Heating Service is a small concern with very little equipment.

Several inspections of its headquarters revealed very little, if any, business. There were no sounds of hammering or other activities. Yet this concern has done hundreds of thousands of dollars worth of business with the Board of Education, a great deal of this being on the small job or work-and-material basis and therefore awarded without competitive bidding. At the meeting of the Board held on December 20, 1944, this concern was paid $18,485.31 in payment of its November bills.

The Committee does not have sufficient authority to investigate these and other cases of questionable financial dealing, but it does raise the questions: Who owns this Dearborn Plumbing and Heating Service? Who receives the profits from it? and What is the connection between this concern and 228 North LaSalle Street?

The Committee has been reliably informed of numerous irregularities of which the following are typical:

1. Payment of $2,500 to a certain ward committeeman by a prominent high-school principal for the purpose of securing passing grades in the 1937 principals' examination.
2. Obtaining the endorsement of ward committeemen, sometimes by the payment of money, in order to secure appointments as substitute teachers for long assignments, as truant officers and other school officers.
3. Payment of money to politicians to secure night school, summer school, and other schoolboard appointments.
4. Making of contributions to political funds on the basis of goods or services sold to the schools by certain firms.
5. Rejection of low bids for school milk and other supplies.

As the school funds of Chicago are partly derived from the state of Illinois and the misuse of such funds is a matter of state concern, it would be proper and in order that a thorough investigation of the financial affairs of the Chicago schools be made by the Governor or by the Illinois Legislature.

General Findings of the Investigating Committee

At the conclusion of its investigation the Committee is convinced that many injurious personnel practices, complained of by teachers, parents, and civic bodies, exist and to a considerable extent have lowered the morale and effectiveness of the school system. If allowed to continue, these practices will cause a progressive degeneration of the Chicago schools which will mark and handicap them for many years.

In spite however, of the injuries done to the schools by the present management, the educational basis of the Chicago schools is still essentially sound. This is due primarily to the fact that a great majority of the teachers are well prepared and are conscientiously devoting themselves to the welfare of the children in their charge, although sometimes under very great handicaps, and that a majority of the principals are conscientiously attempting to administer their schools in the best interests of their students. Many of the special services and activities of the Chicago schools are outstanding. A few of them originated with the present administration but, although a careful reading of the Superintendent's reports seems to indicate otherwise, most of them were in existence prior to its advent.

The intimidation and punishment of capable, independent teachers who are unwilling to submit to domination, the insistence upon blind loyalty to the administration rather than upon loyalty to the children and the cause of education, attempts to dominate or to divide teachers organizations, the use of transfers to punish some individuals and to intimidate others, the dependence upon domination of teachers rather than upon leadership and integrity to secure necessary teacher unity and compliance—these and other undesirable personnel practices are prevalent in the Chicago schools and should not be allowed to continue.

Whether or not he is wholly responsible for present conditions, Superintendent Johnson's conduct and motives are questioned by so many teachers and citizens who hold him responsible that there is little chance that he will ever be able to reestablish himself and to assume the position of influence and leadership necessary for the successful superintendency of the Chicago public schools.

Much of the responsibility for present conditions and for the bad reputation borne by the Chicago school system locally and throughout the country must be assumed not only by Superintendent Johnson but also by the Board of Education and its President. They have failed to operate the schools democratically; they have acquiesced in and are legally responsible for many of the bad personnel practices existent in Chicago; and they have been the medium through which political controls have been exerted. However, most of these evils would have been much less had the Board of Education and its President confined themselves, as far as permitted under the Otis law, to legislative and judicial functions.

Much of the responsibility for Chicago's school conditions inevitably must rest upon Mayor Edward J. Kelly. Under the Otis law it is his duty to appoint members of the Board of Education. After making these appointments, his official responsibility ceases and he has no legal control over the Board or its actions. However, his own repeated reelections to the position of mayor have brought about a condition whereby all the Board members are his appointees and are to a considerable extent loyal to him, responsive to his wishes and cooperative with the City Hall organization. By taking a firm stand on needed

changes in school policies and administration and by backing this stand up by the appointment of carefully-selected Board members as vacancies occur, the mayor in all probability could bring about a correction of improper practices and could do much to reestablish public respect and approval of the school system. The unfortunate school controversies of the past ten years inevitably must have taught Mayor Kelly that the best politics is no politics in the schools.

Final responsibility for redeeming the schools rests with the voters of Chicago whose only effective means of expressing themselves in school matters is by their votes in the city elections. It is unfortunate that school issues are frequently submerged by other pressing civic issues at city elections, but if present trends continue, the condition of the schools will become serious enough to have a considerable influence in the next city election.

Most of the ills of the schools could be cured by a few years of wise, public-spirited school administration. Because critical problems face America in the next several decades, it is of first importance that the best possible education be provided for the youth of America. The strengthening of the Chicago schools should be, and we believe soon will be, a first concern of the voters and citizens of that city.

Summary of Recommendations

The recommendations of the Investigating Committee are summarized briefly as follows:

1. The most important single function of the Board of Education is the selection of a Superintendent of Schools. It is recommended that the members of the Board have in that position one in whom they have sufficient confidence to place the supervision and management of the schools and that they withdraw from the administrative field and confine themselves to the important work of determining policies, passing upon the recommendations of the school administration and evaluating its work. In spite of the present law, the Board through amendment of its rules could constitute the Superintendent of Schools its major executive officer, and could require the clearance of business and other departmental matters through him to the Board.
2. One of the major objectives of the Superintendent of Schools should be to reestablish a leadership of the teaching body by means of knowledge, fairness, integrity, and deep interest in the welfare of the children of the city. He should provide a method whereby teachers' ideas, suggestions, criticisms, and grievances can be given careful consideration. Some type of teacher council should be instituted as a means of securing these objectives.
3. The Board of Education should restrict its President to the customary and legal functions of that office.

4. The business of the Board should be conducted openly and democratically, and careful consideration should be given to honest suggestions and criticism from parents, other citizens, and from lay groups.
5. As far as possible, the injustices done to individuals by the school system during the past ten years should be corrected. A policy of just and considerate treatment of employees should be rigidly followed.
6. Unfit, unworthy, or dishonest employees should be eliminated by methods provided under the tenure and civil service laws.
7. Every effort should be made to correct a number of defects in the Otis law. This law has many admirable features and by amendment could be made a satisfactory basis for the operation of the Chicago schools. Briefly, the following changes are recommended:
   a. The Superintendent of Schools should be made the executive officer of the Board with the business manager and school-board attorney clearing through him.
   b. The Board of Examiners should consist of highly qualified members, preferably drawn from outside Chicago, who should be appointed for merit and should be placed on tenure.
   c. The tenure provisions of the law should be strengthened by giving professional employees the right to a hearing before demotion.
   d. Amendments should be passed prohibiting nepotism.
   e. Unless conditions in the Chicago schools are immediately corrected, every effort should be made to secure the passage of a sound law for the election-at-large of the Chicago Board of Education. While the popular election of the Board would not guarantee the elimination of bad conditions, it would provide frequent opportunities to present the cause of education and the needs of the schools directly to the voters. Also it would make possible the independence of the school system and would definitely increase the respect of school management for public opinion.
8. The Chicago Teachers College should be maintained on a high level of efficiency; the autonomy of the institution should be guaranteed and the faculty should be protected from undue domination and control. This institution should be open to all qualified residents of Chicago who wish to enter the teaching profession. Its graduates however, should not be guaranteed positions in the Chicago schools but should be in open competition for such positions with graduates of other standard educational institutions.
9. The Governor of Illinois or the legislature, through an impartial committee with subpoena powers, should conduct a thorough

investigation of the operation and management of its Chicago schools during the past twelve years. They have a responsibility in this situation as the schools of Chicago are a part of the educational system of Illinois and are allotted a considerable annual apportionment of state school funds. Not only should charges of financial irregularities be investigated but also needed changes in the basic school law, the distribution of expenditures for educational and noneducational purposes, and other questions involved in sound management of the Chicago schools.